

**REPORT
OF THE
WORKING GROUP
ON
LABOUR ADMINISTRATION
(Northern Region)**



NATIONAL COMMISSION ON LABOUR

**Printed in India by M/s. Indian Printing Works, New Delhi in 1969
Published by Manager of Publications, Civil Lines, Delhi-6.**

Price { Inland : Rs. 1.40 paise
 { Foreign : 3 Sh. 4d or 51 Cents

CONTENTS

	<i>Pages</i>
<i>Chapter</i> I Introduction	... 1
<i>Chapter</i> II Special Features of the Region	... 6
<i>Chapter</i> III Role of Labour Administration	.. 11
<i>Chapter</i> IV Labour Laws and Their Enforcement	.. 14
<i>Chapter</i> V Pattern of Labour Administration	.. 55
<i>Chapter</i> VI Conciliation Machinery	.. 69
<i>Chapter</i> VII Special Problems of Labour Administration.	.. 77
Acknowledgements	.. 99
Summary of Conclusions and Recommendations.	.. 101

APPENDICES

<i>Appendix</i> I Points on which information was collected from various States.	.. 114
<i>Appendix</i> II Employments added to the Schedule under the Minimum Wages Act.	.. 117
<i>Appendix</i> III Comparative statement of Administrative Set-up of Labour Departments in various States.	... 119
<i>Appendix</i> IV Organisational Chart of Labour Commissioner's Offices in	.. 134
(A) Uttar Pradesh	.. 134(A)
(B) Rajasthan	.. 135
(C) Punjab	.. 136
(D) Haryana	.. 137
(E) Delhi Administration	.. 138-139
(F) Jammu & Kashmir	.. 140
(G) Himachal Pradesh.	.. 141
<i>Appendix</i> V Powers delegated to Officers of the Labour Department for administration of Labour Laws in various States.	.. 142
<i>Appendix</i> VI Guide-lines for Conciliation Officers.	.. 148
<i>Appendix</i> VII List of Officers who also attended the meetings of the Regional Working Group on Labour Administration.	.. 157

MEMBERS

1. Shri Dashrath Singh,
Labour Commissioner,
Government of Uttar Pradesh,
Kanpur.
2. Shri N. N. Vohra,
Labour Commissioner,
Government of Punjab,
Chandigarh.
3. Shri D. D. Sharma,
Labour Commissioner,
Government of Haryana,
Chandigarh.
4. Shri N. K. Joshi,
Labour Commissioner,
Government of Rajasthan,
Jaipur.
5. Shri S. Y. Andrabi,
Labour Commissioner,
Government of Jammu & Kashmir,
Srinagar.
6. Shri P. K. Mattoo,
Labour Commissioner,
Government of Himachal Pradesh,
Simla.
7. Shri S. C. Vajpeyi,
Labour Commissioner,
Delhi Administration,
Delhi.
8. Shri T. C. Jain,
Joint Labour Commissioner,
Government of Rajasthan,
Jaipur.

FOREWORD

The National Commission on Labour appointed the Regional Working Group on Labour Administration for Northern Region consisting of States of Uttar Pradesh, Punjab, Haryana, Rajasthan, Jammu & Kashmir, Himachal Pradesh and Union Territory of Delhi in its attempt to understand the changes in Labour Administration in this region since Independence. This was one of the five Groups set up for study of Labour Administration. The Group was required to analyse available information and project its thinking on Labour Administration for the years to come taking into account the possible changes in the economy of the country.

The views expressed in the report are the views of the Working Group. In examining them for framing its final recommendations, the Commission will attach due importance to these views coming as they do from knowledgeable persons connected with the Labour Administration. In the meanwhile, the report is being published by the Commission with a view to seeking comments on it from persons/institutions interested in the subject.

The Commission is grateful to the Chairmen and Members of the Working Group individually for completing their work within the time limit fixed for them. The Commission is also grateful to all persons/institutions who may have helped the Working Group in reaching conclusions.

P. B. GAJENDRAGADKAR,
Chairman

National Commission on Labour,
D-27, South Extension, Part II,
New Delhi-16.

CHAPTER I

INTRODUCTION

1.1. The Regional Working Group on Labour Administration (Northern Region) for the areas covered by the States of Uttar Pradesh, Punjab, Haryana, Rajasthan, Jammu and Kashmir and Union Territories of Himachal Pradesh and Delhi Administration was constituted by the National Commission on Labour vide their Memorandum No. 3(49)1/67-NCL, dated the 28th December, 1967. The following persons were appointed as Members of the Working Group;

1. Shri J. N. Tiwari,
Labour Commissioner,
Government of Uttar Pradesh,
Kanpur. *Member*
2. Shri P. L. Sondhi,
Labour Commissioner,
Government of Punjab,
Chandigarh. *Member*
3. Shri S. K. Misra,
Labour Commissioner,
Government of Haryana,
Chandigarh. *Member*
4. Shri N. K. Joshi,
Labour Commissioner,
Government of Rajasthan,
Jaipur. *Member*
5. Shri S. Y. Andrabi,
Labour Commissioner,
Government of Jammu & Kashmir,
Srinagar. *Member*
6. Shri P. K. Mattoo,
Labour Commissioner,
[Government of Himachal Pradesh,]
Simla. *Member*

7. Shri S. C. Vajpeyi,
Labour Commissioner,
Delhi Administration,
Delhi.

Member

8. Shri T. C. Jain,
Joint Labour Commissioner,
Government of Rajasthan,
Jaipur.

Member-Secretary

1.2. The National Commission on Labour in modification of its Memorandum No. 3(49)1/67-NCL, dated the 28th December, 1967 made the following changes:

- (i) Shri N. N. Vohra, on being appointed as Labour Commissioner, Punjab, was nominated as Member of the Working Group vide National Commission on Labour Memorandum No. 3(52)1/68/NCL, dated the 8th February, 1968 in place of Shri P. L. Sondhi.
- (ii) Shri Dashrath Singh, on being appointed as Labour Commissioner, Uttar Pradesh, was nominated as Member of the Working Group vide Memorandum No. 3(49)1/68/NCL, dated the 30th April, 1968 of the National Commission on Labour in place of Shri J. N. Tiwari.
- (iii) Shri D. D. Sharma, on taking over as Labour Commissioner, Haryana in place of Shri S. K. Misra continued to attend the meetings of the Working Group.

1.3. The Working Group was asked to submit its Report within three months. In the first meeting of the Working Group held on 23rd January, 1968 it was decided to request the Member-Secretary, National Commission on Labour, to permit the submission of the Report by end of June 1968. As the submission of the Report was not possible by this date, the Member-Secretary, National Commission, was again moved to extend the term of the Working Group till the end of July 1968. This was agreed to by the Commission.

1.4. The Working Group was enjoined to submit its report and recommendations on the various aspects of Labour Administration contained in the Paper circulated by the Commission.* The Group was allowed a free hand in arriving at its

* Hereinafter referred to as 'Paper.'

own conclusions by adding to, amending or modifying the general conclusion contained in the Paper, specifically keeping in view the experience of the States in the Region.

1.5. The Working Group was desired to hold meetings in each of the States included in the Region. Since no permanent Chairman was appointed to preside over the meetings of the Group, the Commission suggested that the Labour Secretary of the State, in which a meeting is held, may preside over it. The Group decided that the Labour Secretaries of all the States in the Region may be invited to attend its meetings as special invitees, so that the continuity of discussions may be maintained. Some senior officers* of the State Labour Departments of the Region also attended the meetings of the Group and contributed to the discussions.

1.6. The Working Group addressed the Chief Commissioner, Union Territory Administration, Chandigarh to nominate a representative to attend its meetings and also to furnish the needed information. There was, however, no response from the Administration.

Procedure followed by the Working Group

1.7. In the first meeting of the Working Group it was decided to collect information regarding the administrative set-up for the implementation of Labour laws, as well as other relevant information from the concerned States. The points on which information was sought by the Group are given in Appendix I. The Group decided to discuss the Paper under broad heads, rather than parawise, so as to view each problem in its entirety and make its recommendations in regard thereto.

Meetings of the Group

1.8. The Working Group held nine meetings at the following places:

<i>S.No.</i>	<i>Date</i>	<i>Place</i>	<i>Chairman</i>
1.	23.1.68	Jaipur (Rajasthan)	Shri J.S. Mehta, Secretary to Government, Labour & Employment Deptt., Rajasthan, Jaipur.

*List of Officers given in Appendix VII.

<i>S.No.</i>	<i>Date</i>	<i>Place</i>	<i>Chairman</i>
2.	11.3.68	Chandigarh (Punjab)	Shri I. C. Puri, Secretary, Labour Department, Punjab, Chandigarh.
3.	12.3.68	Pinjor (Haryana)	Shri R.I.N. Ahooja, Secretary, Labour Department, Haryana, Chandigarh.
4.	8.4.68 to 9.4.68	Nainital (Uttar Pradesh)	Shri A.K. Sharma, Secretary, Labour Department, Uttar Pradesh, Lucknow.
5.	22.4.68	Delhi	Shri R.M. Agarwal, Secretary, Labour Department, Delhi Administration, Delhi.
6.	18.5.68 to 20.5.68	Simla (Himachal Pradesh)	Shri P.K. Mattoo, Secretary, Labour Department, Himachal Pradesh, Simla.
7.	22.6.68 to 24.6.68	Mussoorie (Uttar Pradesh)	Shri A.K. Sharma, Secretary, Labour Department, Uttar Pradesh, Lucknow.
8.	6.7.68 to 9.7.68	Srinagar (Jammu & Kashmir)	Shri P.N. Kaul, Secretary, Labour Department, Jammu & Kashmir, Srinagar.

<i>S.No.</i>	<i>Date</i>	<i>Place</i>	<i>Chairman</i>
9.	26.7.68 to 28.7.68	Udaipur (Rajasthan)	Shri J.S. Mehta, Secretary to Govt., Labour Department, Rajasthan, Jaipur.

1.9. Shri B. N. Datar, Member-Secretary of the National Commission on Labour addressed the Members of the Working Group in its meeting held at Delhi on 22nd April, 1968.

1.10. The Working Group appointed a drafting Committee consisting of Sarvashri S.C.Vajpeyi, N.N. Vohra, N.K. Joshi and T.C. Jain.

1.11. The various States in the Region extended full co-operation to the Group in making arrangements for its meetings as also in supplying the requisite material and information.

1.12. The Group gave due consideration to the problems and suggestions made in the Paper. There were, however, certain co-related matters which were also considered by the Group and find mention in this Report. Information and material required to be collected by the Group, as enjoined in the Paper, has also been embodied at appropriate places in the pages following.

सत्यमेव जयते

CHAPTER II

SPECIAL FEATURES OF THE REGION

2.1. Though the problems of Labour Administration are essentially the same all over the country, every Region and each State has its own special features. Before dealing with the problems of this Region, it would be useful to discuss briefly its significant characteristics, extent of industrialisation, types of industries, employment pattern and situation etc.

2.2. The Region comprises of five States—Punjab, Haryana, Uttar Pradesh, Rajasthan and Jammu & Kashmir and three Union Territories—Delhi, Himachal Pradesh and Chandigarh. Jammu and Kashmir enjoys a special status under Article 370 of the Constitution. The States and Union Territories have varying administrative set-ups. While the States of Uttar Pradesh, Jammu & Kashmir were in existence before Independence, the State of Rajasthan came into being in 1949 consequent upon the integration of princely States. The existing boundaries of Punjab, Haryana and Himachal Pradesh emerged as a result of the Reorganisation of Punjab State on November 1, 1966.

2.3. In area, Rajasthan and Uttar Pradesh are among the largest States in India, while Haryana and Punjab are comparatively much smaller. The data in Table I will give a general idea of the area and population of the various administrative units in the Region.

2.4. There has been significant increase in the number of factories and workers employed during last ten years in the States/Territories of this Region, as revealed by the Table below :

TABLE I

STATEMENT SHOWING EMPLOYMENT IN MANUFACTURING INDUSTRIES,
TRADE AND COMMERCE ETC

1	2	3	4	5	6	7	8
	Uttar Pradesh	Rajasthan	Punjab	Haryana	Himachal	Delhi	J. & K.
1. Area (sq. Km)	294366	342267	122010*	43869	21629	1483	222870
2. Population (000's)	73746	20156	20306	7591	2812	2659	3561
3. Total Workers	28850141	9583840	7101146	2842876	805487	854451	1523621
4. Employment in Manufactu- ring Other than House Hold Industry	800835 (2.77)	172025 (1.79)	354058 (4.98)	107648 (3.78)	6735 (.83)	170324 (19.93)	33453 (2.19)
5. Employment in Construction	213919 (.74)	109162 (1.13)	140243 (1.97)	39332 (1.38)	13710 (1.7)	35360 (4.14)	8734 (.57)
6. Employment in Trade and Commerce	1062882 (3.68)	288157 (3.00)	385471 (5.42)	128640 (4.52)	7177 (.89)	146727 (17.17)	33620 (2.20)
7. Employment in Transport, Storage and Communication	399265 (1.38)	117909 (1.23)	142472 (2.00)	45282 (1.59)	2920 (.86)	49569 (5.80)	13230 (.80)

* Area of Reorganised Punjab is 50,230 Km.

Note : Figures in brackets show the percentage of
employment in manufacturing industry etc.,
to total working population.Source—1. Basic Statistics compiled by N.C.L.
2. Pocket Book of Labour Statistics, 1967.
3. Indian Labour Statistics, 1968.

TABLE. II

Statement Showing the Rise in No. of Registered Factories
And Workers Employed During 1957 and 1966

State	No. of registered factories in 1957	No. of reg. factor- ies in 1966	Percen- tage in- crease.	No. of workers employed in 1957	No. of workers employed in 1966+	Percentage increase.
1	2	3	4	5	6	7
1. Uttar Pradesh	1977	381	93 %	283000	326172	15 %
2. Rajasthan	627	2200	251 %	53611	76559	43 %
3. Punjab	} 2970\$	4069*	129 %	99000\$	104060*	71 %
4. Haryana		1218*				
5. Himachal Pradesh	14	107	664 %	1310	7908	504 %
6. Delhi Adm.	863	1403	63 %	48930	76261	56 %
7. Jammu & Kashmir	107£	190	78 %	54826£	8993	64 %

\$Figures of Joint Punjab.

Source—1. Indian Labour Statistics, 1968

* Figures of Reorganised Punjab.

£Figures for the year 1962 (J. & K.).

2. Information supplied by State Labour Commissioners.

+ Figures related to factories submitting returns.

2.5. It will be seen that the number of factories has almost doubled in some of the States of this Region. Barring a few pockets, this Region is, comparatively, industrially under-developed. Most of the industries are in the small-scale sector. About 90% of the total number of factories in the Region employ less than 100 workmen, except in Uttar Pradesh, where about 17% of the factories employ more than 100 workers. The major industries consist of Sugar, Textiles, Leather goods, Engineering, Cement and Chemical industries. The number of public sector undertakings (Central) located in this Region is significantly low, as compared to other regions. This region is known for its cottage industries i.e. carpet, silk, wool weaving,

timber, wood work and handicrafts, light engineering, hand-loom, hosiery etc.

2.6. In Jammu and Kashmir and Himachal Pradesh, construction work and forest provide employment to vast majority of working force in these States, but on account of scattered location of these industries and their unorganised nature, the conditions of workers engaged in these industries have not yet received the attention they deserve.

2.7. The preponderance of small-scale units and their scattered location as well as the general backwardness of the Region have influenced the pattern of labour administration and its effectiveness, or otherwise, in the Region to-day.

2.8. The Table below indicates the growth and development of trade unionism in the Region :

TABLE III
Statement Showing the Number of Trade Unions and Their Membership in 1956-57 to 1966

State	No. of regd. trade unions 1956-57	No. of regd. unions in 1966	Per cent age increase in No. of trade unions	Member ship 1956-57	Member ship 1966	Percentage increase in member ship
1	2	3	4	5	6	7
1. Uttar Pradesh	879	1369	56 %	308310	441983	43 %
2. Rajasthan	217	725	234 %	45780	106759	133 %
3. Punjab	379*	473\$	99 %	37000*	73980\$	188 %
4. Haryana	—	282	—	—	32682	—
5. Himachal Pradesh	7	72	928 %	1025	14833	1347 %
6. Delhi Admn.	270	468	73 %	140948	292555	108 %
7. Jammu & Kashmir	21	121	476 %	3585	8271	130 %

*Figures related to Joint Punjab.
\$Figures relate to re-organised Punjab.
£Membership relates only to unions submitting returns.

Source: 1. Information supplied by Labour Commissioner.
2. Basic Statistics compiled by NCL for different States.
3. Indian Labour statistics-68.

2.9. It would be noticed that the growth of trade unionism in this Region has been rather slow, keeping in view the development and growth of new industries during the last two decades. This has been due to the economic backwardness of the Region, illiteracy among the working classes, preponderance of smaller units and their scattered location, as well as the fact that large areas of this Region constituted princely States till about two decades ago and were not covered by any progressive social legislation. It has also to be mentioned that trade unionism in the Region is confined to organised and established industries located mostly in the urban areas, and has still to cover large areas of employment e.g. in agriculture, construction, quarrying and cottage industries.



CHAPTER III

ROLE OF LABOUR ADMINISTRATION

3.1. The national government has undertaken to devote itself to the problems of labour welfare, social security and social justice by adopting a democratic constitution, which makes labour a concurrent subject and lays down comprehensive directive principles of State policy. The evolution of our present labour policy can be traced to the year 1946, when the programme of legislative and administrative reforms in the country was drawn up.

3.2. The evolution of labour Policy, during the successive Plans, has been based upon and is linked with the programme of the over-all economic development of the country. It sought to give a concrete shape to the legitimate needs and aspirations of the working classes which included fair wages, suitable working and living conditions, social security, etc. With the acceptance of a socialistic pattern of society as the legitimate goal of economic development, there was a corresponding shift in the labour Policy. This was reflected in the experiment of labour participation in management through the machinery of joint consultation. Another important shift in the labour policy was the emphasis on collective bargaining in the promotion of healthy industrial relations. The successive Plans also laid stress on the administrative aspects of the enforcement and implementation machinery. Emphasis was also laid on voluntary approach to the solution of labour problems as witnessed by the promulgation of the Code of Discipline in Industry, Code of Conduct, Industrial Truce Resolution and the various recommendations of the tripartite bodies like the Indian Labour Conference, the Standing Labour Committee, etc. in this context.

3.3. The Group is mainly concerned with problems of Labour Administration, i.e. problems of implementation of

labour laws, their effectiveness and other related issues. For this purpose, it is necessary to examine whether the objects underlying the labour legislation and other voluntary measures adopted for the betterment of working class have been fulfilled and whether they have helped in providing the desired benefits in real terms to the labour. If this has not been possible, it is also to be ascertained whether it is due to ineffective administration or deficiencies of the legislation itself. Since the ultimate object of labour policy is to protect the working class and to promote its welfare, both these aspects have to be considered in their entirety. The gap between "determining" a goal and "achieving" it has thus to be clearly ascertained and defined.

3.4. The mere enactment of laws cannot benefit the working class. This has been beautifully summed up in the following passage by Dr. Gajendragadkar:

"Law in relation to liberty and social justice has to be considered in its aspect of a flexible instrument of social change and social adjustment. In this context, the law is not merely a command of the legislature or the monarch. Its functional aspect is of the utmost significance. It is social institution, democratically evolved in order to achieve the object of making social adjustment to meet the challenge, which necessarily and incessantly flows from unsatisfied, legitimate human desires and ambitions".*

3.5. The Group agrees with the view that "the task of the Labour Administrator in an industrial democracy is not merely to see the compliance with the legal provisions under the various Acts. It is more to create the necessary atmosphere in which the obligations and responsibilities under laws are understood and accepted and to create the necessary consciousness for the observance of these provisions".** The object of the labour administration is to provide a just, efficient and adequate machinery for implementation of the provisions of the labour laws. The machinery for labour administration has necessarily to be geared up to meet new challenges emerging from the growing consciousness.

*P. B. Gajendragadkar: Law, Liberty and Social Justice (pp 45—49).

** Paper prepared by the Commission (Para 33).

3.6. There has been some criticism that while there is fairly comprehensive labour legislation in existence, enforcement is rather unsatisfactory. The First Plan specifically referred to the administrative aspect of enforcement and implementation and called for proper training of the supervisory staff. The Second Plan also talked of the inadequate implementation of the labour laws and recommended deterrent penalties. Third Plan emphasized the proper implementation of the labour legislation which has already been passed and to avoid, as far as possible, the enactment of new laws. The panel appointed by the Planning Commission for drafting the Labour Policy during the Fourth Plan also states that "in future, emphasis should be more on the effective enforcement of existing labour legislation rather than on enforcement of new labour laws." The draft outline of the Fourth Plan also observes that "there is room for considerable improvement in the administration of the legislation, which has been enacted for the protection, safety and welfare of the industrial workers."

3.7. The task of this Group would accordingly involve a close examination of the existing labour laws, the corresponding administrative machinery for the enforcement thereof and the adequacy or otherwise of the machinery. The Group has also examined whether the existing gaps in the labour administration have been due to the weak administrative machinery or shortcomings in the statutes themselves. Special problems relating to better industrial relations, streamlining of the conciliation machinery, problems relating to the small industrial sector, agricultural labour and the public sector in the context of the existing administrative and implementation machinery have also been discussed in the Chapters following.

CHAPTER IV

LABOUR LAWS AND THEIR ENFORCEMENT

4.1. Labour being a subject on the concurrent list, most of the Central laws are applicable to States in this region, except Jammu & Kashmir which has a special status under the Constitution. Labour laws in force can be classified under the following six main groups:

1. Legislation pertaining to conditions of service and employment.
2. Legislation pertaining to Industrial Relations.
3. Legislation pertaining to social security.
4. Legislation pertaining to wages.
5. Legislation pertaining to labour welfare.
6. Miscellaneous legislation.

A comprehensive list of Central and State Acts which are applicable to the States in this region is given below, group-wise.

GROUP I:

4.3. Conditions of Service and Employment:

Central Acts:

1. Indian Boilers Act, 1923.
2. Factories Act, 1948.
3. Mines Act, 1952.
4. Plantation Labour Act, 1951.
5. Motor Transport Workers' Act, 1961.
6. Children (Pledging of Labour) Act, 1953.
7. Employment of Children Act, 1938.
8. Employment Exchange (Compulsory Notification of Vacancies) Act, 1959.
9. Apprentices Act, 1961.
10. Biri and Cigar Workers (Conditions of Employment) Act, 1966.

State Acts:

1. Jammu & Kashmir Factories Act, 1957.
2. Delhi Shops and Commercial Establishments Act, 1954.
3. Jammu & Kashmir Shops and Commercial Establishments Act, 1966.
4. Punjab Shops and Commercial Establishments Act, 1958.
5. Rajasthan Shops and Commercial Establishments Act, 1958.
6. Uttar Pradesh Dookan aur Vanijya Adhishthan Ahdiniyam, 1962.
7. Jammu and Kashmir (Pledging of Labour) Act SY. 2002.

GROUP II**4.3. Legislation pertaining to Industrial Relations:***Central Acts:*

1. Trade Unions Act, 1926.
2. Industrial Employment (Standing Orders) Act, 1946.
3. Industrial Disputes Act, 1947.
4. Working Journalists (Conditions of Services and Miscellaneous Provisions) Act, 1955.

State Acts:

1. Jammu and Kashmir Industrial Disputes Act, 1950.
2. Jammu and Kashmir Trade Unions Act, 1950.
3. Jammu & Kashmir Industrial Employment (Standing Orders) Act, 1960.
4. Industrial Disputes (Rajasthan Amendment) Act, 1958.
5. Uttar Pradesh Industrial Disputes Act, 1947.

GROUP III**4.4. Legislation pertaining to Social Security***Central Acts:*

1. Workmen's Compensation Act, 1923.
2. Employers' Liability Act, 1938.
3. War Injuries (Compensation Insurance) Act, 1943.
4. Employees' State Insurance Act, 1948.
5. Employees' Provident Fund Act, 1952.

6. Maternity Benefit Act, 1961.
7. Personnel Injuries (Compensation Injuries) Act, 1963.

State Acts:

1. Jammu & Kashmir Employees' Liability Act SY. 2000,
2. Jammu & Kashmir Workmen's Compensation Act, SY 2000.
3. Punjab Maternity Benefit Act, 1943. (Repealed)
4. Rajasthan Maternity Benefit Act, 1953.
5. Uttar Pradesh Maternity Benefit Act, 1938.

GROUP IV

4.5. Legislation pertaining to Wages

Central Acts:

1. Payment of Wages Act, 1936.
2. Minimum Wages Act, 1948.
3. Working Journalists (Fixation of Rates of Wages) Act, 1956.
4. Payment of Bonus Act, 1965.

State Acts:

1. Jammu & Kashmir Payment of Wages Act, 1956.
2. Fair Wages clause & P.W.D. Contractors Regulations

GROUP V

4.6. Legislation pertaining to Safety and Labour Welfare

Central Acts:

1. Coal Mines Labour Welfare Act, 1947.
2. Mica Mines Labour Welfare Act, 1946.
3. Iron Ore Mines Labour Welfare Cess Act, 1961.

State Acts:

1. Uttar Pradesh Sugar and Power Alcohol Industries Welfare and Development Fund Act, 1950.
2. Uttar Pradesh Labour Welfare Fund Act, 1956.
3. Punjab Labour Welfare Fund Act, 1965.
4. Punjab Industrial Housing Act, 1956.

GROUP VI

4.7. Miscellaneous Legislation

Central Acts:

1. Collection of Statistics Act, 1953.

2. Industrial Development and Regulations Act, 1951.

State Acts:

1. Uttar Pradesh Industrial Establishments (National and Festival Holidays) Act, 1961.
2. Punjab Industrial Establishments (National and Festival Holidays and Casual and Sick Leaves) Act, 1965.
3. Uttar Pradesh Industrial Undertakings (Special Provisions for Prevention of Unemployment) Act, 1966.

Each State has also framed Rules under the various Acts.

4.8. The above is an exhaustive list of the labour legislation applicable in the Region. It would not be fruitful to give a gist of each Act. The main provisions of the Central Acts are well known and need not be reiterated.

4.9. Some of the State Acts also do not seem important from the point of view of labour administration and as such details of the same have not been given. It would, however, be useful to mention briefly the important provisions of some of the State Acts in order to examine and evaluate the set-up of labour administration in the Region.

Jammu & Kashmi: Factories Act, 1957:

4.10. This Act is more or less on the pattern of the Factories Act, 1948. It came into force on 1.4.57.

The Uttar Pradesh Industrial Disputes Act, 1947.

4.11. The Uttar Pradesh Industrial Disputes Act, 1947 differs from the Central Act in some important matters. The preambles of the two Acts also differ. The approach of the Central Act is one of settling industrial disputes and maintaining harmonious relations between the employers and labour. The Uttar Pradesh Act also aims at empowering the Government to prevent strikes and lock-outs. Section 6-B of the said Act makes special provisions for legalising the settlements arrived at between the disputant parties outside the conciliation proceedings. Further, under Section 3, separate procedures have been laid down for settlement of disputes in the public and the private sectors by Government Orders. Disputes of the private sector go to the Conciliation Officers, Conciliation Board and

adjudication. There is provision for the appointment of Conciliation Boards and arbitrators, with the consent of both the parties. The Conciliation Officer is empowered to constitute a Conciliation Board for promoting the settlement of an industrial dispute. The Conciliation Board consists of the Conciliation Officer as its Chairman and one representative each of the parties to the dispute, appointed by the Chairman in consultation with the parties. The Conciliation Officer is also vested with powers not to entertain an application for constitution of a Board if it is in respect of a dispute which has arisen more than six months prior to the date of application or if the dispute has already been the subject matter of proceedings before a Conciliation Board, a Labour Court or a Tribunal or has been finally settled. The State Government and the Labour Commissioner can also refer any industrial dispute to a Conciliation Board. The settlement of disputes in the Public Sector Undertakings is carried out through the Works Councils, Permanent Conciliation Board and the High Power Committee. State-owned undertakings, industrial undertakings under the control of the U.P. State Electricity Board, Co-operative Banks, Government Hospitals and Sanatoria employing 100 or more workmen and the industrial undertakings of Municipal Boards and Corporations are required to constitute Works Councils consisting of the representatives of employers and workmen. These Councils are authorised to discuss matters of common interest, including production problems, welfare measures, training schemes of workmen, etc. Any difference of opinion among members about the functions and constitution of Works Councils is to be referred to the Chairman of the Permanent Conciliation Board whose decision is final and binding. The Works Councils meet as often as necessary but have to meet at least once a month. If a dispute is not settled by the Works Council, it is referred to the Permanent Conciliation Board, which consists of the Chairman and two members, one representing each of the parties to the dispute. Government may also refer any industrial dispute to the Permanent Conciliation Board. If no settlement is reached on any point, the Chairman has to submit a report thereon to the State Government. The

Report of the Permanent Conciliation Board is placed before a High Power Committee consisting of the following:

- (a) Secretaries to the Government in Labour and Finance Departments.
- (b) Secretary of the Department concerned.
- (c) Labour Commissioner, and
- (d) The head of undertaking/organisation.

The decision of this Committee is final.

The Industrial Disputes (Rajasthan Amendment) Act, 1958:

4.12. The State Government amended the Industrial Disputes Act, 1947 by the Industrial Disputes (Raj. Amend.) Act, 1958. This was brought in force from 1.7.60. The amended Act provides for the registration of unions as representative unions under certain conditions and for arbitration of industrial disputes. The definitions of the terms 'Workman' and 'Employer' have been further widened, so as to include therein independent contractors and contract labour. The State Government has inserted Chapter IIIA in place of Section 19A of the Central Act, which provides for the settlement of disputes through arbitration. Under the said amendment, provisions of the Arbitration Act, 1940 have been made applicable in the arbitration of industrial disputes, while under the Central Act the provisions of the Arbitration Act, 1940 have been specifically made not applicable. If there is only one union in the Industry having 15% or more membership, it can be registered as a representative union. If there are two or more unions, the unions having the larger membership can be registered as a representative union. The rights and privileges of the representative union have, however, not been defined under the Rajasthan Act. Secondly, the Rajasthan Amendment Act does not lay down any minimum period for which a union must function after its registration as a trade union before it can claim registration as a representative union, when clause 1 of the criteria appended to the Code of Discipline requires that a union claiming recognition should have functioned for at least one year after registration as a trade union. Thirdly, the Rajasthan Amendment Act also does not lay down any time limit before a union can be derecognised,

after it has been recognised as a representative union, but under the criteria laid down under the Code of Discipline, a period of two years has been prescribed during which the union once recognised cannot be derecognised.

Jammu & Kashmir Industrial Disputes Act, 1950:

4.13. The Jammu & Kashmir Industrial Disputes Act, 1950 has been framed broadly on the model of the Central Act. The main difference is that while the Central Act provides for constitution of Works Committees in establishments having 100 or more workers, the Jammu and Kashmir Act has fixed the limit as 25. Also in the application of lay-off benefits, the employment figure has been brought down to 25 as against 50 in the Central Act.

Jammu & Kashmir Workmen's Compensation Act:

4.14. This Act came into force on 24.5.43. A Draft Amendment Bill is already under consideration of the State Government. The Bill seeks to reduce the waiting period from seven days to three days, to ensure timely submission of returns by the employers by enhancing penalty for non-submission of the returns in time, a broad-based coverage of the term 'Workmen' and to increase the wage limit from Rs. 100/- to Rs. 500/- per month and also to enhance the rate of compensation in case of death or permanent disablement.

Jammu & Kashmir Payment of Wages Act, 1956:

4.15. The Jammu & Kashmir Payment of Wages Act came into force from 1.8.59. The Act was later on amended by the Jammu & Kashmir Payment of Wages (Amendment) Act, 1961, extending its application to the industrial establishments like boats, forests and labour engaged in construction work. An amendment seeking to increase the wage limit for coverage from Rs. 200/- to Rs. 400/- per month and also to enhance the time limit within which an employee may prefer his claim from six months to one year, is under consideration of the State Government.

The Jammu & Kashmir Trade Unions Act, 1950:

4.16. This Act came into force from 1st September, 1953. The Act was later on amended in the year 1961 by the Jammu &

Kashmir Trade Unions (Amendment) Act, 1961 making it obligatory on the part of employer to give recognition to the trade unions and lays down procedure for such recognition.

Shops and Commercial Establishments Acts:

4.17. Each State has its own Shops and Commercial Establishments Act. The Punjab Shops and Commercial Establishments Act, 1958 also applies to the State of Haryana and merged areas of Himachal Pradesh. Though the main provisions of the Shops and Commercial Establishments Acts are mainly the same, there are some differences in the State Acts. The Uttar Pradesh Dookan aur Vanijya Adhistan Adhiniyam, 1962 does not provide for any registration of the Shops and Commercial Establishments. Under the Punjab Shops and Commercial Establishments Act also, no registration fee is charged under the Act. Under the Rajasthan Shops and Commercial Establishments Act, a registration fee of Rs. 2/- and Rs. 5/- respectively for establishments having less than 10 employees and establishments having 10 or more employees is charged. Under the Delhi Shops and Commercial Establishments Act, the following fees are charged for registration:

- | | |
|--|-----------|
| (i) Shops/Establishments without employees | Rs. 1.00 |
| (ii) Shops/Establishments with 1 to 10 employees | Rs. 3.00 |
| (iii) Shops/Establishments with 11 to 24 employees | Rs. 5.00 |
| (iv) Shops/Establishments with 25 and above employees | Rs. 7.50 |
| (v) Hotels, Restaurants, Theatres, Residential Hotels employing more than 25 persons | Rs. 20.00 |

The applicability of Shops and Commercial Establishments Act to areas on the basis of population, etc. and granting of exemptions also differs from State to State.

The Uttar Pradesh Industrial Establishments (National Holidays) Act, 1961 and Punjab Industrial Establishments (National and Festival Holidays and Casual and Sick Leaves Act, 1965.

4.18. These two Acts have been enacted with a view to putting on statutory footing the grant of paid national and festival holidays to workmen. The U.P. Act provides for 3 national holidays in a year, while the Punjab Act provides for

grant of 7 holidays (3 national and 4 other festival holidays) a year. It also provides for grant of 7 days casual and 14 days sick leave in a calendar year. In Rajasthan, there is a resolution of the Rajasthan Labour Advisory Board, a tripartite body, to grant seven paid national and festival holidays in a year. The Punjab Act is also applicable to the State of Haryana and the merged areas of Himachal Pradesh.

The Uttar Pradesh Labour Welfare Fund Act, 1961, Punjab Labour Welfare Fund Act, 1965:

4.19. The Uttar Pradesh Labour Welfare Fund Act, 1961 and the Punjab Labour Welfare Fund Act, 1965 create funds for financing labour welfare activities. The U.P. Act has not as yet been enforced. The Fund is made up of fines realised from employees, unclaimed wages, grants and subsidies and voluntary donations, etc. The Punjab Act also applies to Haryana and merged areas of Himachal Pradesh.

The U.P. Sugar and Power Alcohol Industries (Labour Welfare and Development Fund) Act, 1950:

4.20. The State Government enacted the U. P. Sugar Power Alcohol Industries (Labour Welfare and Development Fund) Act, 1950 for making better provision for financing measures for:

- (i) promoting welfare of labour employed in the industry; and
- (ii) development of industry.

A fund known as U.P. Sugar and Power Alcohol Industries (Labour Welfare and Development) Fund was created under the Act for the following three purposes with three separate accounts for each purpose:

- (a) Housing
- (b) General welfare
- (c) Development

The above accounts were to consist of:

- (1) Money allotted out of the Fund by the State Government from time to time.
- (2) Any grants made by State Government.

- (3) Contributions made by any other person(s) and charges, fees or other moneys paid or payable to each account.

In addition to the above, the Housing Account is also credited with the following:

- (1) Rents, if any, realised from housing accommodation constructed out of Housing Account,
- (2) Any other moneys received by Housing Board.

Rules framed by the State Government provided for 90 % of the income to be credited to Housing Account and 1 % to the General Welfare and Development Account.

The Punjab Industrial Housing Act, 1956 :

4.21. The State Act makes provision for allotment, recovery of rent, eviction and other ancillary matters, in respect of houses constructed under the Subsidised Industrial Housing Scheme for Industrial Workers in the State of Punjab. The Labour Commissioner is the competent authority for the administration of the Act.

Fair Wages Clause and Panjab P. W. D. Contractors' Labour Regulations:

4.22. These regulations regulate the payment of wages of workers engaged by the P.W.D. contractors. It also lays down that no P.W.D. contractor shall pay to worker less than the fair wage notified at the time of inviting tenders for the work and where such wages have not been so notified the wages prescribed by the Punjab Public Works Department for the district in which the work is done. These regulations also provide for the mode of payment of wages, fixation of wage period, fines and deductions, maintenance of registers and wage cards, etc.

Application of Central Laws to Jammu & Kashmir:

4.23. The list of Central and State Acts given earlier in this Chapter shows that the State of Jammu & Kashmir has its own labour laws, as the Central laws have not been made applicable to this State. We have been informed by the representative of Jammu & Kashmir Government that the State Government is very keen about the application of Central laws to the State and has approached the Government of India in the

matter. We feel that for the sake of uniformity, the Government of India should take an early decision to apply the Central Labour Laws to the State of Jammu & Kashmir.

ENFORCEMENT MACHINERY

Factories Acts:

4.24. The Factories Act, 1948 is the most important legislation concerning the working condition of factory workers which the State Governments have to get enforced. Though there is a Director General, Factory Advice Service and Labour Institutes (who was till recently designated as Chief Advisor of Factories) to co-ordinate the implementation of the Factories Act in the States, the responsibility for the implementation of this Act rests primarily with the State Governments. The machinery provided in each State consists of a Chief Inspector of Factories and Inspectors of Factories appointed under the provisions of the Factories Act. In Punjab, the Labour Commissioner also functions as the Chief Inspector of Factories. There is also a Deputy Chief Inspector of Factories at the Headquarters. Besides, there is provision for the appointment of six Inspectors of Factories and one Medical Inspector of Factories in the State. The Factories Inspectorate works under the administrative control of the Labour Commissioner. In Haryana also the Labour Commissioner works as the Chief Inspector of Factories and has under his control one Deputy Chief Inspector of Factories and seven Inspectors of Factories. In Uttar Pradesh, there is a separate Chief Inspector of Factories, who is under the administrative control of the Labour Commissioner. There are two Deputy Chief Inspectors of Factories, two Inspectors of Factories (Medical) and 19 Inspectors of Factories. In Himachal Pradesh, the Labour Officer also works as the Chief Inspector of Factories and, besides him, there is an Inspector of Factories. In Delhi, the enforcement of the Factories Act is under the charge of the Chief Inspector of Factories, who also works as the Chief Inspector of Boilers and Electrical Inspector. He is under the administrative control of the Labour Commissioner. There are six other Inspectors of Factories. In Rajasthan, there is one Chief Inspector of Factories, who also works as the Chief Inspector of Boilers. He works under the administrative control of the

Labour Commissioner. There is one Senior Inspector of Factories and seven Inspectors of Factories who also act as Inspectors of Boilers. In Jammu & Kashmir, the Labour Commissioner works as the Chief Inspector of Factories. There are two provincial Inspectors, one for Kashmir, and the other for Jammu area.

4.25. From the afore-mentioned details it would be clear that the pattern of the enforcement machinery for the Factories Act varies from State to State. While in some States, the Labour Commissioner (though he is not a technical person) functions as the Chief Inspector of Factories, in the other States the work of inspection of factories is combined either with Boilers or Electrical Inspectorate. However, in all States of this region, the Factories Inspectorate is under the administrative control of the Labour Commissioner and the Chief Inspector of Factories does not function as an independent Head of the Department.

4.26. The Group also considered the important issue of the relationship between the Labour Commissioner and the Inspectorate of Factories. The Group is of the view that the Chief Inspector of Factories should be a technical whole-time functionary. The post should not be combined with that of the Labour Commissioner, who being a non-technical person and also being saddled with other administrative duties, may not be able to discharge the functions of the Chief Inspector of Factories satisfactorily. However, on the question whether the Chief Inspector of Factories should be a Head of Department independent of the Labour Commissioner or whether he should work under the administrative and supervisory control of the Labour Commissioner, we are of the unanimous view that the Chief Inspector of Factories should remain under the administrative control of the Labour Commissioner, though he may function independently so far as the technical matters pertaining to the enforcement of the Factories Act are concerned. The reason weighing with us in making this recommendation is that the Labour Commissioner, being overall responsible for the administration of all the labour laws and labour-management relations, has to work as the co-ordinating authority between the

different wings of the department, which are responsible for the enforcement of various laws. In the labour-management relations, complaints regarding the non-enforcement of the Factories Act are quite heavy and very often disputes give rise to work-stoppages which relate to demands which directly pertain to the enforcement of the provisions of the Factories Act. For a proper co-ordination between the different wings of the Labour Department, the Labour Commissioner should continue to have supervisory and administrative control over the Factories Inspectorate also.

4.27. Another important point which the Group considered was about the adequacy of the Factories Inspectors in each State. We are of the unanimous view that the strength of the Factories Inspectors in the States (except Himachal Pradesh and Jammu & Kashmir) was far below the required number. The Group agrees with the recommendation of the Labour Ministers' Conference held in 1960 that for every 150 factories there should be one Inspector, if the Factories Act is to be enforced properly. In case the factories are scattered and the area to be covered is very large, as in the case of some States in this region, even this yard-stick may be required to be modified. However, the present strength is inadequate as Table IV (Pp. 27) will show.

4.28. Despite the best efforts of the existing machinery, it has not been possible for the Factory Inspectors to inspect factories as frequently as may be necessary and to enquire into the complaints of non-enforcement, etc. The Factories Inspectors are hardly able to visit each factory even once in a year and a large number of factories are not inspected even once in 2 to 3 years. A number of factories remain unregistered and un-noticed by the factories inspectorate. Table V (Pp. 28) gives the number of Factories inspected and left un-inspected in each State.

4.29. Whenever the question of increasing the strength of the factories inspectorate is raised, the Finance Departments of the States invariably do not agree for one reason or the other, foremost being "financial stringency". In this connection it is to be mentioned that registration fee is charged from the parties under Section 6 of the Factories Act, 1948 and every

TABLE IV
Statement Showing the Number of Factories, Strength of Inspectors and Factories per Inspector

STATES	Number of registered factories		Number of Factories Inspectors sanctioned		Number of factories per Inspector	
	1965	1966	1965	1966	1965	1966
1	2	3	4	5	6	7
1. Uttar Pradesh.	3729	3810	19	19	196	201
2. Rajasthan.	2068	2200	7	7	295	314
3. Punjab.	*5318	**4069	*8	**6	665	678
4. Haryana.	—	**1218	—	7	—	174
5. Himachal-Pradesh.	43	107	1	1	43	107
6. Delhi.	1337	1403	3	3	446	468
7. Jammu and Kashmir.	191	190	2	2	95	95

*1965 Figures relate to Joint Punjab.

**1966 Figures relate to Reorganised Punjab.

Source: 1. Information for the year 1965 from the N.C.L. Paper for the Conference on Working Conditions.

2. Information for 1966 from the Labour Commissioners.

TABLE V

Statement Showing the Total No. of Factories, Number of Factories Inspected and Un-inspected and Percentage of Un-inspected Factories to Total Number of Factories.

STATES	Total Number of Registered Factories.			Number of Factories Inspected			Number of Factories Un-inspected			PERCENTAGE OF UN-INSPECTED FACTORIES TO TOTAL NUMBER OF FACTORIES.		
	1965	1966	1965	1965	1966	1965	1965	1966	1965	1965	1965	1966
1	2	3	4	5	6	7	8	9				
1. Uttar Pradesh.	3729	3810	3729	3708	nil	102	nil	2.6%				
2. Rajasthan.	2068	2200	1148	1227	920	973	45%	44%				
3. Punjab.	*5318	**4069	3745	2848	1573	1221	30%	30%				
4. Haryana.	...	**1218	..	N.A.	..	N.A.	..	N.A.				
5. Himachal Pradesh	43	107	29	57	14	50	33%	47%				
6. Delhi.	1337	1403	967	990	389	413	29%	29%				
7. Jammu and Kashmir.	191	190	136	148	55	42	29%	22%				

*1965 Figures relate to Joint Punjab.

**1966 Figures relates to Reorganised Punjab.

Figures of Haryana relate to 1967.

Source:— 1. Paper for the Conference on Working Conditions-N.C.L.

2. Information as supplied by the Labour Commissioners.

year the licence is renewable on payment of the requisite fee. The revenue received from the registration of the factories goes to the State exchequer. As already pointed out, the object of labour administration is not only to see that compliance of the legal provisions is made, but also to create an atmosphere in which the obligations and the responsibilities are understood and accepted by the parties. It would be the primary duty of any factories inspectorate to create a suitable atmosphere and consciousness among the employers and workers to understand their obligations regarding safety, welfare, etc. The Rajasthan High Court has decided in a case that the fees realised from the registration of factories should be spent on the enforcement machinery (A.I.R. 1954 Raj. 178). Table VI (Pp. 30) will show that the amount realised from the registration of factories is more than the amount spent on the enforcement machinery in each State of this region except Jammu and Kashmir.

4.30. It would thus be seen that there is considerable scope for strengthening the machinery for enforcement of the Factories Act, if it is decided that the revenue realised from the registration of factories will be spent on the strengthening of Inspection machinery. We, therefore, strongly recommend that each State should increase the strength of the Factories Inspectorate adequately and to be commensurate at least with the amount realised from registration fees from the factories. Wherever work justifies, a Medical Inspector of Factories and a Chemical Inspector should also be appointed. In fact, the strengthening of the Factories Inspectorate will bring more revenue to the States, by way of realisation of registration fees from factories, which might not have come to the notice of the Factories Inspectors due to pressure of work.

4.31. The Working Group also considered the question of appointment of Additional Inspectors of Factories under sub-sections 5 and 6 of Section 8 of the Factories Act, 1948. In Uttar Pradesh, all conciliation officers and some other officers have been appointed as Additional Inspectors for non-technical provisions of the Factories Act. In Punjab and Haryana also, Deputy Labour Commissioners, Assistant Labour Commissioners and Conciliation Officers work as Additional Inspectors of Factories.

TABLE VI

Comparative Statement Regarding Revenue and Expenditure on Enforcement Machinery under Factories Act.
1948 in Each State (In Rupees)

STATES	1965-66		Percentage of		1965-66		Percentage of
	Revenue	Expenditure	Expenditure	to Revenue.	Revenue	Expenditure	
1	2	3	4	5	6	7	
1. Uttar Pradesh.	8,37,253.87	5,33,296	6 %	7,94,939	5,89,094	74 %	
2. Rajasthan.	2,42,043	1,39,733	58 %	2,53,428	1,64,056	65 %	
3. Punjab.	6,33,800.50	£1,36,370	22 %	**3,40,986.50	1,24,000	36 %	
4. Haryana.	..	..	..	*91,500	*53,780	59 %	
5. Himachal Pradesh.	12,854	N.A.	..	18,507	N.A.	..	
6. Delhi.	1,70,375	95,826	56 %	2,08,754	2,06,294	49 %	
7. Jammu and Kashmir.	N.A.	7,842		19,931.25	20,200.00	101 %	

£ Figures relate to Joint Punjab.

*Figures for the year 1967.

**Figures relate to Reorganised State of Punjab.

Source:— 1. Paper for the Conference on Working Conditions—NCL for 1965.
2. Information as supplied by the Labour-Commissioners for 1966.

In Rajasthan, a notification was issued appointing all the Conciliation Officers in the State as Additional Inspectors of Factories, but this notification was later on withdrawn. The object of appointment of the Additional Inspectors of Factories is to assist the Factories Inspectors in supplementing their work as and when necessary, particularly when complaints regarding non-enforcement of the Act are received directly by such officers. The propriety of giving powers of Additional Inspectors of Factories to the Conciliation Officers was considered by the Working Group. It was brought to the notice of the Working Group that there is an I. L. O. Convention No. 81 which states that "the functions of the Labour Inspectors should not include that of acting as conciliator or arbitrator in the proceedings concerning labour disputes". In view of this I.L.O. convention, which has been accepted by the Government of India, we feel that it would not be proper to give powers of Additional Inspectors of Factories, particularly to the Conciliation Officers. Those officers who are not working as Conciliation Officers, if appointed as the Additional Inspectors of Factories, may inspect the factories only when they receive complaint in the course of their work. Even in such cases, the Report of Inspection should be sent to the Inspector of Factories of the area and the Chief Inspector of Factories.

4.32. Another important functionary created under the Factories Act is the Certifying Surgeon appointed under Section 18 of the Act. It was brought to the notice of the Working Group that certifying surgeons have not effectively discharged their functions under the Act, because the District Medical Officers or other Senior Medical Officers appointed as Certifying Surgeons under the Act have no incentive to do such work and they can hardly find time to examine and certify the ages of young persons or examine the persons engaged on dangerous operations. We, therefore, feel that the powers of the Certifying Surgeons should be given to as many Medical Officers as possible and their area demarcated. It was also suggested that where Medical Officers of the Employees' State Insurance Corporation are available, such officers should be designated as Certifying Surgeons. The Medical Officers appointed at the Labour Welfare Centres working under the Labour Department,

may also be considered for appointment as Certifying Surgeons under the Act.

4.33. While discussing the enforcement of the Factories Act, it was brought to the notice of the Working Group, the penalties under the Act today are not deterrent. When the prosecutions are launched, the time taken in deciding cases by the Courts is sufficiently long and the penalties imposed are meagre which leave no effect of deterrent character on the minds of employers. At present, the cases of prosecutions under the Factories Act are put up in the ordinary courts of City Magistrates or Judicial Magistrates of the area. These officers also hear such cases in the routine manner. We are of the view that unless cases of prosecutions not only under the Factories Act but under other labour laws are heard by Special Magistrates and are decided expeditiously, they cannot leave desired effect on the parties. We are of the view there should be a Labour Judicial Service which will not only work as adjudication machinery in industrial disputes, but may also be empowered to do magisterial work in hearing prosecution cases under various labour laws. Till then, each State can appoint special magistrates (like the Railway Magistrates) to hear cases of prosecutions under the labour laws. Such officers will be able to expedite the decisions of cases referred to them and will also have better grasp of laws and their background and will acquire specialisation in course of time in these subjects.

4.34. Another important aspect of the enforcement of the Factories Act, which was considered by the Working Group, was that till now the labour engaged in erection of a plant and installation of factories is not covered under the provisions of the Factories Act. There are a number of cases of accidents involving life of workmen, in pre-production or erection stage of a factory. Recently, there was a serious accident, involving the lives of 14 workmen in a factory under construction at Kota (Rajasthan). The Group felt that the workers engaged in the pre-production and erection-stage in a factory, should also get the benefit of the provisions of the Factories Act, which deals with safety and welfare. We also recommend that for conditions of work and safety of labour engaged in construction

work and scaffoldings, a separate legislation should be considered by the Central Government as early as possible, in case the provisions of the Factories Act cannot be extended to this category of labour.

Indian Boilers Act, 1923:

4.35. Though the Indian Boilers Act, 1923 is regarded as a labour legislation, the work of inspection of boilers is not under the Labour Department in the States of Punjab, Haryana, Himachal Pradesh, Jammu and Kashmir. Only in Delhi, U.P. and Rajasthan the work of the inspection of boilers is under the Labour Department. In U.P. there is a separate Inspectorate of Boilers under a Chief Inspector of Boilers, while in Delhi and Rajasthan, the Chief Inspector of Factories is also the Chief Inspector of Boilers. In Punjab and Haryana, the work of inspection of boilers is under the Industries Directorate. In Himachal Pradesh, boiler inspection is looked after by the Boiler Inspectors of the Government of Punjab. We are of the view that the work of inspection of boilers should be under the administrative control of the Labour Department in all States.

Shops And Commercial Establishments Act.

4.36. Each State has its own Shops and Commercial Establishments Act. Though the main provisions of the Act are more or less similar, there are some differences in other provisions of the Acts. In Punjab, Haryana, Himachal Pradesh and U.P., no registration fee is charged under the Act. In Delhi and Rajasthan, registration fee is charged under the Act. The Group is of the view that for proper enforcement of the Shops and Commercial Establishments Act, it is necessary that registration of shops and commercial establishments should be provided under the Act and a small registration fee be charged from the owners of shops and commercial establishments. We are also of the view that this fee may range between Rs. 2/- to Rs. 5/-. Besides, the certificate of registration should also be renewed every third year.

4.37. In Rajasthan, the enforcement of the Shops and Commercial Establishments Act is not with the Labour Department. Inspectors appointed under the Weights and Measures

Act., who work under the administrative control of the Industries Department, have also been appointed Inspectors under the Rajasthan Shops and Commercial Establishments Act, 1958. The Controller, Weights and Measures, works as Ex-Officio Dy. Labour Commissioner for the purpose of the enforcement of this Act. In other States of this region, the work of the Shops and Commercial Establishments Act is under the Labour Department. A large number of Inspectors have been appointed to enforce the provisions of the Act, though these Inspectors are also saddled with other work i.e. inspections under the Minimum Wages and Motor Transport Workers Act etc. Usually, the Dy. Labour Commissioner or an Assistant Labour Commissioner is appointed as Chief Inspector of Shops and Commercial Establishments under the Act. The Group is of the view that the Shops and Commercial Establishments Act being primarily a labour legislation, the enforcement of this Act should remain under the administrative control of the Labour Department. This Act applies to quite a large section of the employees, particularly in the big cities. Non-compliance with the provisions of this Act, particularly, attracts public attention and public criticism. There are equally chances of corruption in the enforcement of this Act. To make the enforcement of this Act more effective, it is necessary that the number of Inspectors should be adequate, though it is not possible to fix a yard-stick for this purpose. The jurisdiction for each Inspector should depend upon the number of shops and commercial establishments in his area. The Inspector should be given Government vehicle or suitable conveyance allowance so that he may cover the area entrusted to him for the purpose of inspection. Wherever possible, separate Inspectors should be appointed for the enforcement at the district headquarters. In big cities, special Magistrates should be appointed to hear and decide cases of prosecutions under this Act preferably on-the-spot in a summary way. It is also necessary that penalty imposed for breach of the Act should be more deterrent so that the administration of the Act may be effective. Minimum penalty should be provided for breach of important sections of the Act.

4.38. It also came to the notice of the Group that the practice of granting exemptions under the Act differs from

State to State. In some States, for example in Rajasthan, liberal exemptions have been granted to various categories of shops and commercial establishments from the provisions of the Act. Shops and commercial establishments, which do not employ any servant, have been exempted from the provisions of the Act. This practice brings such shops in unfair competition with those shops who engage servants. The Group feels that the practice of giving exemptions under the Act to various classes of shops and establishments should be uniform throughout the States in this Region.

4.39. The Group is equally of the view that though each State has its own legislation regarding working conditions, welfare etc. in shops and commercial establishments, it would be desirable if the Government of India for the sake of uniform policies brings a central legislation on the subject, as was contemplated earlier. The State Governments may be allowed to have suitable modifications, where considered necessary, in its application to each State.

4.40. The Group is also of the view that all towns which are notified as town areas or municipal areas should be covered under the Shops and Commercial Establishments Act. At present there is no uniform practice in this regard in some of the States.

Motor Transport Workers' Act:

4.41. The Motor Transport Workers Act, 1961 is a legislation brought in force recently for regulating conditions of work and welfare of the workers employed in the motor transport undertakings. At present, the Act applies to every motor transport undertaking employing five or more motor transport workers. It was brought to the notice of the Group that many employers deliberately avoid coverage under the Act by changing the ownership of the motor transport vehicles, so that the number of the employees falls short of the legal requirements. It has been suggested that if the number of employees for the purposes of coverage under the Act is reduced to two, the chances of evading coverage by the employers may be reduced to the minimum. The Group was, however, of the view that such a change would mean covering almost all motor Transport.

undertakings and, therefore, there should be no change in the present provisions of the Act.

4.42. The Act being comparatively a recent legislation, no separate machinery has been provided in most of the States for the enforcement of this Act. The work is given to the existing Inspectors, e g., Shops Inspectors, Minimum Wages Inspectors, Labour Inspectors etc. Since the enforcement of this Act also brings revenue to the State in the form of registration fee, it is necessary that adequate machinery should be provided for the enforcement of this Act. It may, however, not be possible to have separate Inspectors for the enforcement of this Act, but the work with each Inspector should be so fixed that it does not affect his efficiency.

Bidi And Cigar (Conditions of Employment) Act, 1966:

4.43. The Government of India has desired that this Act should be brought into force from 1st April, 1968. In Rajasthan, the Act has been brought into force from 1st May, 1968. Necessary action for enforcement of the Act in Uttar Pradesh is still under way. In other States of this region, the problem does not exist, there being very little labour engaged in this industry. Since it is recent legislation, no separate machinery has so far been appointed by States to enforce the provisions of the Act. It is, however, recommended that the Act should be implemented by Labour Inspectors or non-technical Inspectors rather than by Inspector of Factories.

Mines Act, 1952:

4.44. The enforcement of the Mines Act is looked after by the Central Government, through the Director General of Mines Safety Services. The members of the Group, on the basis of their experience, pointed out that due to inadequate strength of Inspecting staff and the mines being operated at far and distant places, there are frequent complaints about the non-enforcement of this Act. It was also reported to us that in a few stone quarries in Rajasthan, where a large labour-force is employed, the employers do not attend to the primary needs of drinking water availability, first-aid etc., and such areas are seldom visited by the Mines Inspector. The Group is accordingly of the view that although the overall responsibility of the enforce-

ment of this Act may remain with the Central enforcing machinery, it would be desirable if the powers of enforcement, at least of the non-technical provisions of the Act, are delegated to the welfare staff employed in the States, so that the enforcement of the provisions relating to welfare is looked after by the States. It is understood that such powers to enforce welfare provisions in the mica and coal mines have been given to the welfare staff appointed under the Coal Mines and the Mica Mines Welfare Organisations.

Trade Unions Act, 1926:

4.45. The enforcement of the provisions of the Trade Unions Act, 1926 is on the Registrar of Trade Unions. Such powers have been given to a senior officer of the Labour Department. In Delhi and Haryana, the Labour Commissioner of the State acts as Registrar of Trade Unions. In Punjab, the Joint Labour Commissioner is the Registrar of Trade Unions. In Rajasthan, the Deputy Labour Commissioner works as Registrar, while in Himachal Pradesh, the Labour Officer works as Registrar of Trade Unions. In the Uttar Pradesh, besides the Registrar, there is a separate post of Deputy Registrar of Trade Unions, who looks after the work of trade unions under the overall control of the Joint Deputy Labour Commissioner who is notified as Registrar. Separate Trade Union Inspectors, to inspect the working of the trade unions, have also been appointed by the U.P. Government. Besides, other Inspectors have also been given powers by the Registrar under section 28(4) of the Trade Unions Act, to make inspections of accounts books, registers and other documents relating to Trade Unions etc. Such an elaborate machinery does not exist at present in other States. Since it is necessary to exercise control on the proper working of trade unions, the Group favours appointment of Inspectors under the Trade Unions Act, investing them with the powers to check malpractices in the working of trade unions. This would require suitable amendment of the Act.

4.46. The Group also considered the question whether the Registrar of Trade Unions should be given powers to decide disputes relating to election of the office bearers of trade unions and also disputes regarding inter-union and intra-union rivalry.

The number of such disputes has considerably increased in the recent days. The Group was of the view that under the present law, the Registrar of Trade Unions has very limited powers and cannot deal with such situations. In some States, particularly in Madhya Pradesh, the Trade Unions Act has been amended and the powers have been given to the Labour Court to decide disputes regarding the election of office-bearers of the trade unions. We strongly feel that such provisions under the law are necessary to check the increasing number of disputes of intra-union rivalry. The Trade Unions Act should be amended so as to provide for settlement of disputes by the Labour Court.

Industrial Employment (Standing Orders) Act, 1946 :

4.47. The main Authority under this Act is the Certifying Officer. In almost all States of this region, either the Labour Commissioner or the Joint Deputy Labour Commissioner or both have been appointed as Certifying Officer under the Act. A particular difficulty being felt in the enforcement of this Act is regarding the comprehensiveness of the standing orders to be framed and to include matters like the age of retirement, transfer, promotion etc. in the schedule to the Act. Section 12A of the Industrial Employment (Standing Orders) Act, 1946 provides that the Model Standing Orders shall be deemed applicable till standing orders are certified for a concern. The Group, however, is of the view that the law should provide for a common set of standing orders for all types of establishments covered under the Act and no certification should be necessary. If an establishment wants to have any modification in the model standing orders, they may approach the Certifying Officer for such purpose. Such a provision will reduce the burden of work on the Certifying Officer.

4.48. There was also a proposal to appoint Inspectors for the enforcement of this Act and to enquire into the complaints regarding non-observance of the certified standing orders. No such machinery exists in any of the States of this region at present. The proposal to amend the Industrial Employment (Standing Orders) Act, 1946 to provide for appointment of Inspectors was accepted in the 24th Session of the Standing Labour Committee, held in February, 1966. The Group is of

the opinion that such a machinery is necessary and should be provided in each State by amendment of the Act.

Industrial Disputes Act, 1947:

4.49. The main functionary appointed under this Act is the Conciliation Officer. The subject is of the labour-management relations and the conciliation machinery is being discussed in a separate chapter.

Payment of Wages Act, 1936:

4.50. The Payment of Wages Act, 1936 is being enforced in all States mainly by the Inspectors of Factories under the over-all control of the Chief Inspector of Factories. Though Section 14(1) of the Payment of Wages Act provides that an Inspector of Factories shall be an Inspector under the Payment of Wages Act in respect of factories, other officers can also be appointed Inspectors under the Payment of Wages Act. This practice has been adopted in some States. In Delhi, besides the Inspectors of Factories, all Deputy Labour Commissioners, Asstt. Labour Commissioners and Labour Officers have been appointed as Payment of Wages Inspectors. In Punjab and Haryana also, the Labour Inspectors work as the Payment of Wages Inspectors. In Uttar Pradesh, besides the Inspectors of Factories, the Labour Inspectors and other Officers of the Labour Department are also empowered to work as Inspectors under the Payment of Wages Act. In Rajasthan, the Inspectors of Factories enforce the Act in respect of factories and the Labour Inspectors in other establishments under the Act. We are of the view that the Inspectors of Factories being technical persons and already saddled with heavy work are not able to carry out the inspections under the Payment of Wages Act comprehensively or to enquire into complaints regarding delay in payment or non-payment of wages etc. A Payment of Wages Inspector is required to prepare claims and file them before the Payment of Wages Authority, in case he receives complaints regarding non-payment or less payment of wages. This requires time and proper study of claims. Since complaints regarding non-payment or delay in payment of wages are on the increase, it is necessary that the field staff of Labour Department, particularly the Labour Inspectors, should be given powers under the Payment

of Wages Act, so that they may expeditiously enquire into such complaints on-the-spot and take proper measures to file timely claims in order to give appropriate relief to the affected workmen. The machinery of enforcement under this Act requires, therefore, proper strengthening.

4.51. The other important machinery provided under the Payment of Wages Act is the Authority which hears and decides claims under Section 15(2) of the Act. The Authority under this Act acts like a Civil Court while hearing claims. In the States of Delhi, Himachal Pradesh, Jammu and Kashmir, Punjab and Uttar Pradesh, the senior Sub-Judges, the Additional District Magistrates or other Revenue or Judicial Officers are working as Authority under this Act. In Haryana, recently all the Labour Officers have been appointed as Authority under the Act. In Rajasthan, the Regional Assistant Labour Commissioners have been appointed as Authority under the Act, by virtue of their also acting as Commissioners under the Workmen's Compensation Act. The experience in Rajasthan of investing departmental officers with quasi-judicial powers has been very successful and has been well-appreciated by the workers. The claims filed before the Civil Courts ordinarily take a longer time and are also heard in a routine manner. The workers do not have sufficient resources to fight cases in the ordinary courts of law and have to wait for decision for a long time, even in respect of petty claims of fraction of their wages. We, accordingly, think that senior officers of the Labour Department of appropriate status, if given this work, will be able to decide cases more expeditiously and would give better satisfaction to the workmen since they are familiar with the socio-economic and legal backgrounds. We, therefore, recommend that officers of the Labour Department, not below the rank of Asstt. Labour Commissioners, may be appointed as Authority under the Payment of Wages Act, to hear and decide claims of workers filed under Section 15 of the Act. The same practice can be adopted for claims filed under the Minimum Wages Act.

4.52. Another important point to be considered in this connection is the difficulty and consequent delay in realising the money through the regular process even after the claim has

been decided in favour of the workmen. Under the present procedure, the case has to be sent up to a Magistrate to realise the amount, as if it were a fine imposed by the Magistrate. This subject of realisation of amount of due wages was also discussed in the 27th Session of the Standing Labour Committee and it was agreed that the present procedure for recovery of worker's dues, in the form of wages, bonus etc., should be reviewed. The consensus of opinion in the Committee was that designated officers should be vested with powers to issue certificates for recovery of wages and the minimum bonus of 4% under the Payment of Wages Act. Such officers should, however, be of sufficiently high status. It is understood that the Central Government is also thinking to bring legislation to amend the Payment of Wages Act on these lines. We fully endorse the decision of the Standing Labour Committee in this connection and hope that necessary amendment to the Payment of Wages Act will be brought soon.

Enforcement of the Minimum Wages Act, 1948 :

4.53. Implementation of the Minimum Wages Act creates a number of administrative problems. The Act is applicable to employments listed in the Schedule under the Act. Section 27 of the Act empowers State Governments to include any other employment in the Schedule. The State Governments have included many other sweated and un-organised employments in the Schedule. A list of employments which have been included in the Schedule of the Minimum Wages Act by the various State Governments in this region is given in Appendix XII.

4.54. Since the Minimum Wages Act is applicable to un-organised sector of industries, most of the employments are small in size and are also scattered. The machinery required for implementation of the Act in these employments correspondingly have to be large. The extension of the Act to other employments further increases the burden on the existing enforcement machinery.

4.55. The implementation of the Minimum Wages Act has to be considered under two heads, firstly, the fixation and revision of minimum wages, and secondly the administration and enforcement of the Act. As regards the fixation and revision

of the Minimum Wages, there are two methods provided under the Act. One is known as the 'notification method' and the other as the 'Committee method'. The Group feels that both the methods can be used for fixation and revision of minimum wages. In cases where adequate material and data are available, the notification method will be more quicker and simpler. In cases where the adequate data regarding conditions of labour and the prevailing rates of wages is not available, the Committee method may be more suitable. It is, however, necessary that there should be judicious selection of the Committee members and proper time-limit should be fixed for submission of its Report. The minimum wages fixed can be revised any time within a period of five years. In some States wages have been revised within a period of three years on account of continuous rise in the cost of living. This matter deserves to be left to the discretion of each State Government.

4.56. The main problem is regarding the enforcement of the Act. In all States the enforcement of the Act suffers due to inadequate staff, burdening of the existing machinery with this work and large number of establishments and the vast area in which the Act is to be enforced. Separate machinery for enforcement has not been provided in most of the States in this region. The work is either given to the Labour Inspectors or other Officers who are also doing some other work. In Rajasthan, enforcement of this Act has been given to Labour Inspectors who do this work in addition to their own. Implementation of the Act particularly in respect of the employment in Agriculture has been entrusted to field 'Kanoongos' and 'Patwaries' of the Revenue Department in Punjab. These officers being busy in their own duties do not find time to discharge their functions properly under the Act. In Haryana, where the Minimum Wages Act covers about 30 employments, the Labour Inspectors and Shops Inspectors are looking after the implementation of the Act. The Labour Officers have been empowered under Section 20 of the Minimum Wages Act to entertain and decide cases arising out of less than minimum wages fixed under the Minimum Wages Act. No Minimum Wages Advisory Board has been constituted in this State so far. In Uttar Pradesh, the Deputy Labour Commissioner (Minimum Wages)

is in charge of the Minimum Wages enforcement, who is assisted by two Assistant Labour Commissioners and the Labour Inspectors posted in different towns of the State. Practically all officers of the Labour Department have been notified as Inspectors under the aforesaid Act. Besides, largely the Sub-Divisional Magistrates and City Magistrates as well as the Stipendiary Magistrates have been notified as Authority to hear and decide claims under this Act. In the Union Territory of Delhi, all officers of the Labour Department have been appointed as Inspectors under the Act and the enforcement of the Act is looked after by the Labour Inspectors, Minimum Wages Inspectors and Shops Inspectors. In Himachal Pradesh, the Labour Inspectors are functioning as Inspectors under the Act. In Rajasthan, the Labour Inspectors have been notified as Minimum Wages Inspectors under the Act. In Jammu & Kashmir, however, the Minimum Wages Act has not been made applicable so far.

4.57. Though it is difficult to assess the number of establishments and approximate number of workers covered under the Act (in the absence of any provision for registration of units covered under the Act), the figures given in Table No. VII (Pp. 44) give an estimate of the magnitude of the problem and administrative difficulties involved.

4.58. The Group seriously gave its mind to the question of improvements in the system of enforcement of the Minimum Wages Act and felt that the staff sanctioned at present is wholly inadequate to cope with the volume of work and there is need to provide exclusive inspecting staff, bearing in mind the scattered size of the establishments and the vastness of the area. The question of strengthening the inspecting staff, no doubt, is linked with the question of the financial resources of the States. It is difficult to lay down any hard and fast yard-stick laying down the number of establishments to be inspected by an Inspector each month or each year, as like inspection of factories, keeping in view the large coverage of establishments, the vastness of the area and the scattered nature of such establishments, but it could be left to each State to fix such a yardstick, depending upon the volume of work with each Inspector in each region. The other difficulty faced is regarding

TABLE NO. VII

Statement showing the number of establishments covered, inspections and prosecutions under the Minimum Wages Act for the years 1965 and 1966.

Name of the State	Approximate No. of units covered		Approximate No. of workers covered		No. of Inspections carried out		No. of Prosecutions filed	
	1965	1966	1965	1966	1965	1966	1965	1966
1	2	3	4	5	6	7	8	9
1. Uttar Pradesh	37527	38259	300920	304142	21970	20259	48	32
2. Rajasthan	6293	7347	66778	82305	2229	2173	86	126
3. Punjab	9375*	5134%	82406*	60698%	10263*	5179%	137*	19%
4. Haryana	..	..	..	..	..	3458£	..	86£
5. Delhi	91499	91597	244400	248400	1159	1464	109	224
6. Himachal Pradesh	NA	NA	NA	NA	84†	43†	11†	..
7. Jammu and Kashmir	Not applicable.							

* Figures relate to Joint Punjab for 1965.

% Figure relates to Reorganised Punjab for 1966.

£ Figure relates for the year 1967 (Haryana).

† Figure relates for the year 1965-66 and 1966-67 for H.P.

transport facilities to the staff. The mobility of staff will greatly improve the enforcement of the Act. Either Government vehicle or suitable conveyance allowance to Inspectors should be considered for improving the quality of inspections. The Inspectors should also be given facility of stay in the Government Dak Bungalow, Rest Houses etc. Being non-gazetted staff they are denied such facilities under Rules. This results in the insufficiency of inspections and ultimately the quality of inspection suffers as the Inspector without a place to stay has to hurry up the inspection to return to his headquarters before night. Another question which was examined by the Group in this connection was whether a separate set of Inspectors, exclusively for the administration of the Minimum Wages Act, should be provided in each State. We feel that it may perhaps not be possible to provide separate Inspectors for each labour law, and if provided the enforcement agency will become so varied that it might appear cumbersome and harassing to the employers and may also financially be not very economical. The Group is therefore, in favour of giving the powers of inspection under the Minimum Wages Act to the Labour Inspectors/Shops Inspectors/Wages Inspectors (by whatever designation they may be called), but their areas should be so-defined that they are not unnecessarily over-burdened. In cities or areas where there is need for an exclusive Inspector, separate Inspectors for enforcement of each Act may be provided.

4.59. The other difficulty felt in the enforcement of the Act relates to the maintenance of records and registers by small establishments which employ very few workers and where even the employer may be illiterate. Such difficulties are particularly felt in the case of employments like flour mills, stone breaking and crushing, agriculture etc. In such cases, we feel that there is need to simplify the Act by reducing the number of forms and registers to be maintained.

4.60. It is particularly necessary to mention a few words about the enforcement of the Minimum Wages Act in Agriculture and the administrative difficulties involved therein. The Act applies to all agricultural employments listed in Part II of the Schedule. The minimum rates of wages in agriculture have been fixed by all States except the State of Jammu & Kashmir.

The personal experience of the members of the Group, however, revealed that there is hardly any enforcement of the Act in the case of agricultural employments. The problem is so complex and immense that with the present machinery it is almost impossible to enforce the Act properly and effectively. The suggestion that the enforcement of the Act, at least in case of agriculture, should be left to local village agencies or block development staff, was also considered by the Group. The Group was of the view that though the Labour Department should remain responsible for the enforcement of the Act in agriculture, assistance may be taken from the Agriculture, Revenue, Social Welfare and Community Development Departments. The officers of these Departments may be given powers of inspection under the Act and may also be given suitable instructions time to time with proper training facilities and arrangements regarding enforcement of the Act. These Officers, no doubt, should work in close co-operation and co-ordination with the Labour Department. The Group equally feels that the enforcement of the Act in agriculture would be difficult in all units whether big or small and, therefore, a beginning should be made by concentrating the enforcement on the farms of 20 standard acres or more. Such farms employ a large number of workers; hence the inspection and enforcement of the Act on such farms will be comparatively less difficult.

4.61. At present, there is no provision regarding de-notification of an employment from the Schedule of the Act. As already mentioned, the object of the Act is to protect labour engaged in un-organised or sweated type of employments against the highhandedness of the employer, because of low level of wages and the bargaining strength of workers remaining nil. Sometime it is felt that the labour in a particular Scheduled employment becomes organised and acquires sufficient bargaining strength. In such circumstances, the State Government should have powers to de-notify such employment from the Schedule under the Act.

4.62. At present minimum wages are fixed generally for the skilled, semi-skilled and un-skilled type of labour. It is sometime argued that in the case of skilled and semi-skilled workers who generally get more than the minimum wages

fixation of minimum wages is not desirable and minimum wages may only be fixed for the un-skilled category of workers. The Group does not favour this view because in an un-organised employment even the skilled workers might be exploited and paid less than the minimum rates of wages fixed for such category of workers by the State Government. The Group accordingly is of the view that for proper enforcement of the Act minimum wages should be fixed categorywise i.e. for skilled, semi-skilled and un-skilled workers and all occupations included in each such category should also be clearly defined.

4.63. One of the reasons why enforcement of the Minimum Wages Act is not satisfactory is that the penalties provided under the Act are not heavy and deterrent. The statement in Table No. VII will show the number of prosecutions filed under the Act by various States in each year. Average fine in a case is even less than Rs. 10/-, which is very meagre. The time taken in fighting out these in the Law Courts is unusually long and much of energy of the enforcement staff is spent merely in conducting cases in the Courts. The Group is of the view that the Act should be suitably amended so as to provide for minimum penalty, depending upon the nature of each offence. There should be provision to file cases in the Courts of the Special Magistrates specially constituted for hearing of criminal cases under the labour laws. The inspecting staff should either be given proper training to prepare and conduct cases in the Law Courts or separate prosecution Inspectors should be appointed as in the case of Police Department, Excise Department etc. so that the cases may be argued and conducted suitably before the Courts.

Workmen's Compensation Act :

4.64. The main functionary under this Act is the Workmen's Compensation Commissioner. In all States except Haryana and Rajasthan, Senior Sub-Judges have been appointed as Workmen's Compensation Commissioners. In Haryana, all Labour Officers have been appointed as Workmen's Compensation Commissioners, while in Rajasthan all Regional Assistant Labour Commissioners have been appointed as Commissioners under the Act. In Panjab, besides Senior Sub-Judges, the District Magistrates

and Labour Commissioner have also been appointed as Commissioners under the Act. In Uttar Pradesh, the District Magistrates, Additional District Magistrates and the Labour Commissioner have been appointed as Workmen's Compensation Commissioners under the Act. We, however, are of the view that powers of Workmen's Compensation Commissioners as far as practicable may be given to Senior Officers of the Labour Department not below the rank of Assistant Labour Commissioners with at least seven years' experience in the Department. This would considerably help in expediting decisions and would also give speedy relief to the workers and their dependents who are usually not in a position to fight their own cases in the ordinary civil courts where decision on such cases usually takes a longer time and the hearing is also in a routine-like manner.

4.65. Under section 24 of the Act, any officer can be specified by the Government to appear before the Commissioner on behalf of the claimant. In Rajasthan, the Labour Inspectors have been specified as officers who can appear before the Commissioner. The workers and their dependents who cannot spend money to engage a legal practitioner, have been benefited by this provision. It is recommended that other State Governments may also take appropriate steps to specify suitable officers under the Act for the above purpose.

Payment of Bonus Act : प्रामेव नयने

4.66. The Payment of Bonus Act, 1965 came into force from the 25th September, 1965. The Act provides for the payment of minimum bonus to the persons employed in factories and certain establishments employing twenty or more workmen. The Act envisages appointment of Inspectors under Section 27 of the Act. Though the Act covers a large number of establishments in each State, separate machinery has not been provided for enforcement and existing machinery has to carry out the enforcement in addition to the normal duties. In most of the States, the work has been given to the Labour Inspectors/Wages Inspectors/Shops Inspectors. In Rajasthan, two separate posts of Inspectors under the Act have been created and powers of Inspector under the Act have, however, been given to all Officers of the Department. Though it may not

be possible to appoint separate Inspectors for enforcement of this Act in all parts of the States, the Group is of the view that in areas of large labour concentration, separate Inspectors for enforcement of the Act may be appointed and at other places, the powers may be given to the Labour Inspectors, depending upon the quantum of work with them. The Group is also of the view that it is necessary to give proper training for the Inspectors, regarding enforcement of the Act, more particularly in respect of the examination of the balance-sheets, profit and loss accounts for purpose of calculation of the available surplus according to the Act.

4.67. Under section 21 of the Act, certificate for recovery of due amount of bonus can be issued against an employer. These powers are vested in the appropriate Government. The Government can, however, delegate such powers to any person subordinate to it, as Authority, which the Government may specify in this behalf. In Uttar Pradesh, this power has been given to the Labour Commissioner, the Deputy Labour Commissioners and the Assistant Labour Commissioners. In all other States, the power still vests in the appropriate Government. The Group recommends that such powers may be delegated to the Labour Commissioner for expediency of disposal of such cases.

4.68. Under Section 19 of the Act, the appropriate Government or such authority as the Government may specify, has powers to extend the prescribed period of eight months for payment of bonus by such period or periods as it may think fit. In Punjab, this power has been given to the Labour Commissioner. In Rajasthan also, the Labour Commissioner, by virtue of his status as Deputy Secretary to the Government, exercises this power in respect of the private sector undertakings. In Uttar Pradesh, this power has been given to Labour Commissioner, Deputy Labour Commissioner and Regional Assistant Labour Commissioners. The Group feels that this power can be delegated to the Labour Commissioner or other Senior Officers.

Other Acts :

4.69. There are some other Acts, the enforcement of which is also the responsibility of the State Govts. However, the work of enforcement of these Acts is not comparatively so important

and the functions have been delegated to the Inspectors appointed to enforce these Acts. No detailed description is necessary in their case.

General :

4.70. The above description regarding machinery provided for enforcement of the Labour Laws in the States of this region shows that each State has provided the enforcement staff according to its financial resources. Though the number of establishments covered and correspondingly the number of workers increased each year, the increase in the strength has not kept pace. More so, with the coming into force of the new laws, viz., the Payment of Bonus Act, Motor Transport Workers' Act, the Biri & Cigar Workers Act etc., the tendency has been to saddle the existing staff with more work than to appoint separate staff to cope with this work. The result is that the enforcement of the new laws has not been satisfactory. Inadequacy of the inspecting staff is the major handicap in the proper enforcement of the labour laws. The other difficulties in enforcement have been the provision of departmental transport, training of the inspecting personnel, providing separate trained prosecuting staff, appointment of special magistrates for hearing cases of prosecutions, delegation of powers to the Labour Commissioner or other senior officers of the Labour Department etc. etc.

4.71. Besides, it is also felt that proper education, both to the workers and the employers, and suitable advice to employers will go a long way in the proper and right enforcement of the various labour laws. The co-operation by workers and employers is yet another vital factor, in the enforcement of laws. The labour legislation being mostly social in character, it should develop its sanctions through the process of social education. Persuasive methods may sometimes yield better results than a repressive policy of prosecutions and harassment.

4.72. It has also been brought to the notice of the Group that at times the Government for reasons best known, withdrew prosecutions after issue of sanctions. It has been alleged that this is due to the vacillating policy of the Government based more on political considerations than sound reasons. No doubt, such withdrawals have a bad psychological effect not only on

the officers who launch such prosecutions, but also on the workers. The Group tried to obtain relevant information on this point from the States of this region. It was noticed that the number of cases where prosecutions have been withdrawn was not very high. In Uttar Pradesh, which is the largest State in this area, the number of cases withdrawn from 1963 to 1967 was only 12 (under the Factories Act) out of a total of 2,500 cases, where prosecutions were launched. Further, in Uttar Pradesh alone, cases under the Shops and Commercial Establishments Act withdrawn were 33 out of 12,000 approximately in a period of 5 years. In other States too, the number of such withdrawals has been rather negligible. The reasons advanced for such withdrawal are that after filing of the prosecution it was noticed that either the establishment has been closed down or the whereabouts of the employers were not known due to wrong addresses etc. In some cases, the employers tendered unqualified apologies for the breach committed and also furnished assurance for future.

The Question Of Central-State Jurisdiction :

4.73. The administration of the various Acts is either with the Central Government or the State Governments or with both. In some of the legislation, the word Appropriate Government has been defined as either the Central Government or the State Government in relation to various employments. The administration of the Factories Act, the Plantations Labour Act, the Motor Transport Workers Act, the Employment of Children Act and the Shops and Commercial Establishments Act is completely under the State Governments. The administration of the Mines Act is under the Central Government. The Trade Unions Act, the Industrial Employment (Standing Orders) Act are administered both by the State and Central Governments in their respective spheres. There is, however, dual administration in the administration of Industrial Disputes Act, Payment of Wages Act, Minimum Wages Act and the Payment of Bonus Act. In case of the Industrial Disputes Act, the Central Government is the "appropriate Government" in relation to any industrial dispute concerning any industry carried on by or under the authority of the Central Government, or by the Rail-

way Company or concerning any such controlled industry as may be notified in this behalf by the Central Government or a banking or an insurance company or a mine or an oil field or a major port etc. In relation to any other industrial establishment, the State Government is the "appropriate Government". Under the Minimum Wages Act also, the Central Government is the "appropriate Government" in relation to any scheduled employment carried on by or under the authority of the Central Government, or a Railway Administration or in relation to a mine, an oil field, a major port or any corporation established by a Central Act. Under the Payment of Wages Act, the Central Government exercises the powers of the State Government in relation to the railways, air transport services, mines and oil fields. Under the Payment of Bonus Act, the Central Government is the "appropriate Government" in relation to an establishment in respect of which the appropriate Government under the Industrial Disputes Act, 1947 is the Central Government. The administration of these Acts, for mines, railways, Life Insurance Corporation and the Central Government Departmental Undertakings falls in the Central sphere, whereas all undertakings other than those coming under the Central sphere are under the State jurisdiction. This overlapping jurisdiction creates a number of administrative problems. For example, in case of mines, the Central Government is the appropriate Government, but if an industrial dispute arises in case of an establishment like a Cement Factory or mica company, where an employer has a mine as well as factories working under the same establishment, the dispute will have to be tackled by two different machineries—one working under the Central Government and the other under the State Government. In such cases, the administrative machinery of the Central and the concerning State Government may take different views and create difficult conditions for the management as well as labour. In certain cases, the Central Govt. delegates powers to the officers of the State Govt., but that does not solve the matter fully. The State Governments are primarily responsible for law and order situations and their officers being generally on the spot or near about can handle the situations of industrial relations more expeditiously than the officers of the Central

Government, who, having wider jurisdiction may not be able to attend to the dispute expeditiously. The Group is, therefore, of the view that to avoid complications and to create uniformity in dealing with such disputes in a particular State, it would be desirable if the industrial disputes pertaining to mines are dealt with by the State Governments, but in the case of Railways, Life Insurance Corporation, the Central Government may continue to remain as the appropriate Government. In case of banks also, except the banks working under the State Bank of India or the Reserve Bank of India, the disputes in other banks should remain the responsibility of the State Governments. The same system should apply in the case of the administration of the Minimum Wages Act, Payment of Wages Act and the Payment of Bonus Act.

4.74. There is some controversy regarding those industries which fall in the State sphere, but are under the management of the Central Government or a Corporation set up by the Central Government. It is argued that various units under the same Corporation or Ministry of the Central Government exist in the different States, but they work under one Corporation or under one Ministry of the Central Government. It is argued that the industrial relations in such industries should be brought under the Central Government jurisdiction. This matter was discussed recently in the Indian Labour Conference, but the State Governments were unanimous in opposing the idea of transferring the industrial relations of such undertakings to the Central Government. This Working Group is also of the view that since the labour management relations are essentially related to the law and order situations and the policies of the State Governments, they should remain under the State Govt. The State Governments are directly concerned about the labour situation and the improvement of the industrial relations in their State. They have also to examine the disputes and deal with them in accordance with the general policy of the State Government. The Officers of the State Government being on the spot and having knowledge of the local conditions are better able to tackle these disputes and quickly too. The Group is, therefore, of the view that except in case of Railways, Life Insurance Corporation and such other industrial units which directly work under the Central Govern-

ment, the administration of the Industrial Disputes Act, Payment of Wages Act, the Minimum Wages Act and the Payment of Bonus Act should be transferred to the State Governments. The Central Government has powers to appoint National Tribunals under Section 7B of the Industrial Disputes Act, 1947 to adjudicate upon the disputes of industries falling in more than one State. Even in the case of private sector there are companies, whose units are scattered in more than one State, but no difficulty is being felt in the administration of the industrial relations of such units in the State Governments. The same policy should be applicable in case of units in public sector.



nations given to the enforcement staff vary. It was felt that since the Inspectors exercise powers of enforcement under various labour laws like the Minimum Wages Act, Payment of Bonus Act, Shops and Commercial Establishments Act, Motor Transport Workers' Act, etc., their designations should be such as to forthwith indicate their respective functions. It would be profitable if the designation of the Inspector is substituted by the "Labour Enforcement Officer" since their primary function is to enforce the provisions of various labour laws. The designation of the Labour Inspectors in the Central Government has also recently been changed to that of the Labour Enforcement Officer. It was also felt that in order to make the enforcement machinery more effective, the Labour Inspectors may be afforded a gazetted status.

5.23. **Nomenclature of the Department :**

The question of the nomenclature of the Department was also considered. It has been said that by naming it as "Labour Department" the functionaries tend to work with a bias in favour of labour. It is also argued that under its existing name, the staff of the Department is so conditioned psychologically that it has to look first to the interests of the labour and that such an attitude is sometimes not conducive to the promotion of ideal industrial relations. It has also been suggested that the department may be redesignated as the 'Industrial Relations Department', as its primary function is to maintain healthy industrial relations. On careful consideration, it was felt that there is no need to bring about any change in the nomenclature of the Department. Even in other countries, the Ministry or the Department dealing with labour is known as the Department of Labour. In a socialistic pattern of society, the balance will always be in favour of the under-privileged. It would also be fallacious to assume that the attitudes of the functionaries of the department will automatically change merely by a change in the nomenclature of the department.

Research, Information and Statistics

5.24. Research on labour problems in this region is far from satisfactory. There are deficiencies in the available statistical information relating to various aspects of labour pro-

TABLE VIII

Table Showing the Number of Changes in the Post of Labour Secretaries and Labour Commissioners.

Name of the State	Number of Changes in the post of Labour Secretary during the last ten years (1958-68)	Number of changes in the post of Labour Commis- sioner during the last 10 years (1958-68)
1. Punjab	5	7
2. Haryana (from 1.11.66.)	4	3
3. Uttar Pradesh	6	5
4. Rajasthan	6	7
5. Delhi	7	5
6. Himachal Pradesh	4	6
7. Jammu & Kashmir	7*	10

Commissioner has been liable to frequent changes in all the States resulting in lack of continuity. The administration of the labour laws is becoming more and more specialised and the person to be appointed as Head of the Department should necessarily possess the requisite background and experience and this by itself necessitates his being on the job for a reasonably long period. We are accordingly of the view that whenever a qualified, suitable and experienced departmental officer is available, he should be equally considered for appointment as Labour Commissioner. The tenure of the office of the Labour Commissioner from I.A.S. should not be less than three years and may go up to five years.

Delegation of Powers :

5.5. Another important point which is to be considered is regarding the powers to be delegated or assigned to the Labour Commissioner. Delegation can either be under a statute, where the appropriate Government is authorised to delegate powers to officers subordinate to it, or under Rules of Business of the

*From 1961 to 1968.

In 1950 there were 61 gazetted officers in the Labour Department. By 1967, this number had gone up to 100.

PUNJAB

5.13. In the erstwhile Punjab, the Labour Department came into existence in 1947. In 1950 the Punjab had a small department consisting of a Labour Commissioner, one Labour Officer, two Factory Inspectors, 17 Labour Inspectors and 53 Shop Inspectors. On 1.11.66, when the new State of Haryana came into being, the strength of the Labour Department consisted of 55 Officers (including 10 Labour Inspectors and 19 Shop Inspectors).

HARYANA

5.14. The State of Haryana was established in November, 1966 and the officers of the department of the combined State of erstwhile Punjab were divided among the emerging units.

HIMACHAL PRADESH

5.15. The present boundaries of the Himachal Pradesh emerged on 1st November, 1966 though the State was established as a Union Territory in 1951. In Himachal Pradesh, the Development Commissioner worked as Secretary, Labour Department and Labour Commissioner up to 1965. But since then, the Director of Industries has been working as ex-officio Secretary to the Government in the Labour Department and also as Labour Commissioner.

DELHI ADMINISTRATION

5.16. In the Union Territory of Delhi, the functions of Labour Commissioner were being carried out by the Director of Industries and Labour till 1961, when a separate post of Labour Commissioner was created.

RAJASTHAN

5.17. In Rajasthan, there was hardly any Department of Labour in the princely States. With the integration of princely States in 1948 and the formation of the United State of Rajasthan, a Labour Department was established, for the first time, with a Labour Commissioner, two Labour Officers, two Inspectors of Factories and one Statistical Officer. In 1949, after further integration of some more States and in 1956 after the

Chief Inspector of Factories, read with Rule 113. of the U.P. Factories Rules, 1950.

- (v) Competent authority under the Minimum Wages Act, 1948 for ascertaining Cost of Living Index Number from time to time in respect of employees in scheduled employments.
- (vi) Power to accord sanction for making complaints under Section 22-B of the Minimum Wages Act, 1948 for offences under Section 22-A.
- (vii) Power to direct employees to maintain alternative registers and records under the proviso to Rule 26 of U.P. Minimum Wages Rules, 1952.
- (viii) Power to operate accounts of the U.P. Sugar and Power Alcohol Industries Labour Welfare and Development Fund Act as Labour Welfare Commissioner under Section 13 of the Act.

5.7. In Rajasthan the following powers of the Government have been delegated to the Labour Commissioner in his capacity as Deputy Secretary to Government :—

- (i) Reference of disputes to adjudication relating to the private sector;
- (ii) Prosecution under labour laws, except in case of Government and Public Sector undertakings;
- (iii) Full powers for grant of extension and exemptions under Labour Laws;
- (iv) Issue of notifications conferring statutory powers on the functionaries of the department;
- (v) Constitution of statutory authorities under the various labour laws;
- (vi) Levy of penal damages under Employees' Provident Fund Act, 1952;
- (vii) Publication of awards in respect of private sector undertakings;

5.8. We are accordingly of the considered view that wherever law permits delegation of powers, such delegation may be made by Government in favour of the Labour Commissioner

and other senior officers of the department. It is also suggested that the Labour Commissioner and other senior officers of the department may also be invested with appropriate secretarial status to enable them to function expeditiously and effectively.

5.9. It would not be correct to make a general observation that the Labour Department, though supreme within its area of functioning, has to invariably bow down to the dictates of other Ministries which are considered to be of a more prestigious type. So far as the Department/Ministries in the States are concerned, much depends on the leadership provided by the Minister for Labour, the Secretary to Government and the Labour Commissioner. It is, however, true to a very great extent that employing departments do not take kindly to the observations of the Labour Department regarding their deviation from the provisions of labour laws. The Labour Department is required to perform the difficult task of persuading two unwilling parties to come to a settlement without being in a position to exercise any effective or decisive powers so as to influence the conduct of either party. It has also to view the conduct of the parties and any action that may be taken against them under the statute from the point of view of future repercussions. This role of the department, we feel, is not fully appreciated by the various departments of the Government. Officers of the Labour Department are sometimes dubbed as "glorified trade unionists". Such observations made more in jest than in seriousness, do, however, reflect the attitude of other Government Departments.

Labour Commissioner's Office :

5.10. The Labour Commissioner's Office, in each State, is the main organisation for the administration and enforcement of the various labour laws in force, for the collection, compilation and dissemination of statistical information and administration of labour welfare, etc. The organisation headed by the Labour Commissioner usually consists of Joint Labour Commissioner(s), Deputy Labour Commissioner(s), Assistant Labour Commissioner(s), Labour Officers and Labour Inspectors, Wage Inspectors and Shop Inspectors. Bigger States like U.P. and Rajasthan also have regional offices at important industrial towns under the charge of a Regional Deputy or Assistant Labour Commissioner. The present set-up

of labour administration in each State, indicating the number of posts of each category and their pay scales is given in Appendix III. An organisational chart of the Labour Commissioner's office for the States of Uttar Pradesh, Rajasthan, Punjab, Haryana, Delhi Administration, Jammu and Kashmir and Himachal Pradesh are given in Appendix IV-A, IV-B, IV-C, IV-D, IV-E, IV-F and IV-G respectively.

5.11. The work in the Labour Commissioner's Office is divided into a number of sections. The pattern of the functional set-up is generally as follows :

- (i) *Industrial Relations Section*—dealing mainly with industrial relations. It may have further sub-sections dealing with Trade Unions and Standing Orders.
- (ii) *Factories Section*—dealing with enforcement of Factories Act, Payment of Wages Act, Employment of Children and Maternity Benefit Act. In Rajasthan and Delhi, this Section also deals with inspection of boilers.
- (iii) *Welfare Section*—This Section looks after the administration of Labour Welfare Centres and other welfare schemes. It may have also a sub-section dealing with the industrial housing scheme.
- (iv) *Minimum Wages Section*—dealing with fixation and revision of minimum wages and enforcement of Minimum Wages Act. It might also deal with the enforcement of Motor Transport Workers' Act.
- (v) *Research, Statistics and Planning Section*—There may also be a publication section.
- (vi) *Accounts, Establishment and General Administration Section.*

Evaluation of Labour Department in various States :

UTTAR PRADESH

5.12. In this region, the first step in the direction of setting up a systematic Government machinery for dealing with various problems of labour was initiated in U.P. in 1937 with the appointment of a whole-time Labour Officer. It was in 1940 that the first whole-time Labour Commissioner was appointed in the State. In 1947, after the assumption of office by the popular Government, a full-fledged conciliation machinery was established.

Government, where the powers can be given to Secretariat Officers. In Rajasthan, the Labour Commissioner has been accorded secretarial status. It is reported that this experiment has been a success in expediting decisions, improving efficiency, increasing effectiveness and cutting down delays. This arrangement has specifically contributed to expeditious disposal of cases relating to issue of sanctions of prosecutions, reference of disputes, issue of notifications, etc. In Uttar Pradesh also, the Labour Commissioner enjoys Secretarial status. Besides him, some senior officers of the department like Joint Labour Commissioner, Deputy Labour Commissioner and Assistant Labour Commissioner also enjoy secretarial powers, for the limited purposes of making references to Labour Court or Industrial Tribunal under the U.P. Industrial Disputes Act, 1947. The Labour Commissioners of Haryana and Punjab have also been given powers to refer individual disputes only under Section 2A of the Industrial Disputes Act, 1947 to adjudication. The Labour Commissioner, Delhi does not exercise any secretarial powers.

5.6. In Uttar Pradesh, the following powers have been delegated by the Government to the Labour Commissioner under the various labour laws :

- (i) He is conferred with appropriate secretarial status and exercises powers of Government in respect of :
 - (a) Reference of industrial disputes to Labour Courts and Industrial Tribunals for adjudication under the U.P. Industrial Disputes Act and matters incidental thereto e.g., withdrawal, transfer and amendments, etc. of reference orders.
 - (b) Power to sanction prosecutions and issue of Recovery Certificates.
- (ii) Power to sanction prosecution under Section 28 of Payment of Bonus Act, 1965.
- (iii) Powers of the State Government under Sub-Section (3) of Section 13 (sanction of prosecutions) under the Industrial Employment Standing Orders Act, 1948.
- (iv) Hearing of appeals under Section 107 of the Indian Factories Act, 1948 in respect of orders passed by the

merger of Ajmer, the present boundaries of the State of Rajasthan came into being. The Labour Department in the State gradually grew up and now has 24 officers and 45 Inspectors.

5.18. Due to recurring changes in the political and administrative set up in the States of this region after 1947, it has not been possible to compare the administrative structure of labour administration in the States as it existed in 1949 and 1967 respectively. It is, however, felt that augmentation and strengthening of the Department in the various States of the region has not kept pace with the rapid increase in the number of factories and industrial units as compared to 1947.

Duties of Various Officers :

5.19. The responsibilities and duties of various officers of the Labour Department are not exactly the same in every State. Senior Officers of the Department like Joint Labour Commissioner and the Deputy Labour Commissioner are given independent powers under various labour laws. They work as Registrars of Trade Unions, Certifying Officers under the Industrial Employment (Standing Orders) Act and as Conciliation Officers. Other officers of the Department are also invested with powers under the various laws. A statement showing the powers exercised by officers of the Department under various labour laws, State-wise, is given in Appendix V.

5.20. Officers below the rank of Labour Commissioner are invariably drawn from the Labour Department except in Uttar Pradesh and Delhi Administration. We are of the view that even if the Labour Commissioner is to be an I.A.S. Officer, other posts in the Labour Department should normally be filled in by officers from the department itself.

5.21. The pay-scales of the various categories of posts in the Department indicate a wide disparity from State to State. We feel that pay-scales of officers of various ranks are not at all commensurate with the responsibilities entrusted to them.

5.22. The question of having uniform designations, specially in the case of the enforcement staff, was also considered by us. Though designations like the Joint Labour Commissioner, Deputy Labour Commissioner and the Assistant Labour Commissioner are common to all States, the desig-

CHAPTER V

PATTERN OF LABOUR ADMINISTRATION

Set-up at the Secretariat Level:

5.1. Pattern of Labour Administration is practically the same in all the States. At the head, there is a Minister of Labour (Executive Councillor in case of Delhi Administration). The main functionaries in the State Government are the Secretary to the Government in the Department of Labour and the Labour Commissioner. In most of the States, the Labour Secretary is also in charge of some other departments. Under the Labour Secretary, there are one or more Deputy Secretaries, Under Secretaries or Assistant Secretaries, depending upon the quantum of work in each State. In Himachal Pradesh, the posts of the Labour Secretary and the Labour Commissioner are combined. The post of Labour Secretary in all the States is held by an I.A.S. Officer.

Post of Labour Commissioner :

5.2. The post of Labour Commissioner is filled by an officer of the I.A.S. cadre, except in Rajasthan and Jammu & Kashmir. In Rajasthan, recently a Departmental Officer has been appointed as the Labour Commissioner, while in Jammu & Kashmir, an officer of J & K Administrative Service is working as the Labour Commissioner.

5.3. Information received from various States revealed that during the last ten years there have been frequent changes of incumbents to the post of the Labour Secretaries and the Labour Commissioner. (Shown in Table VIII)

5.4. An important question which is to be examined in the context of labour administration is whether the post of the Labour Commissioner, who is the most important functionary in the set-up, should be filled by an I.A.S. Officer or by a department officer. Table No. VIII shows that the post of Labour

blems. The Labour Bureau invariably complains about the delay in the submission of Annual Returns and Reports and about the quality of statistics furnished by the States. Except in U.P., there is no full-fledged Research and Statistics section in any of the States in this region. We feel that the work of collection of statistics and research is important and should receive due attention. In some of the States, the statistical work is shared between the Labour Department and the Directorate of Economics and Statistics. It is felt that Statistical and Research Sections should form an integral part of the Department. The designations of the staff should be Research Officer (Labour), Research Assistant, etc. etc. and they should be of the same status as Assistant Labour Commissioner, Labour Officer, Assistant Labour Officer or Labour Enforcement Officer, and should also be eligible for promotion to higher posts in the Department. It was further felt that to improve the quality of statistics and their timely compilation, adequate supporting staff must be provided in the section, for which the Central Government have already agreed to share expenditure.

5.25. It was felt that the work relating to publicity should be given due attention. In Uttar Pradesh and Delhi, Labour journals are being published by the department, which have proved quite useful in educating the workers and employers. It is recommended that wherever feasible, a labour journal should be published by the Labour Department, to afford adequate publicity to its work as also for disseminating useful information.

Sharing of Expenditure between the Central and State Governments :

5.26. Entire expenditure on the staff employed for labour administration in the States is at present defrayed by the State Governments, except sharing of expenditure on the staff appointed on the recommendations of the Labour Bureau for improvement of Labour Statistics. Most of the labour laws are enacted by the Central Government, but the enforcement machinery is to be provided by the State Governments. When these laws are enacted, the Parliament only considers the financial implications devolving on the Central Government,

which are given in the financial memorandum appended to the Bill, but the machinery required to enforce the Acts in the States and its financial implications are not given due consideration. The net result is that whenever there is a new legislation, the burden mostly falls on the existing personnel, resulting in overburdening them with multifarious duties. Though the State Governments fully appreciate the need for strengthening the machinery of the Department, they have not been able to do so because of financial difficulties. Such a state of affairs is extremely unsatisfactory from the point of view of labour administration. Implementation of most of the problems of labour administration dealt with in this report e.g. inadequacy of staff, improvement of status and pay-scales of officers, provision of adequate transport facilities, training of personnel etc. involve financial implications. If labour administration is to be improved, adequate funds shall have to be provided. Most of the State Governments are not in a position to meet additional financial burdens. The position can be improved only if the Central Government comes to the help of the States by sharing at least part of the expenditure incurred on the staff appointed to administer the labour laws enacted by the Central Government. The Central Government shares 60% of the expenditure on the Employment and Training Schemes. We are of the view that similar pattern may be adopted for sharing expenditure by the Central Government on the enforcement staff maintained by the States.

Indian Labour Service :

5.27. The question as to whether there should be a central cadre of Industrial Relations Service to which the Central and State Officers may belong was considered at some length by the Group. We are of the view that in the context of the changing pattern of labour legislation, it would be necessary to have an All-India Labour Service. The creation of an All-India Service would ensure not only the maintenance of a uniform approach to labour problems, but also be desirable for ensuring security of tenure, proper status and independent outlook of officers. They will be less subject to outside influences and would further ensure inflow and outflow of experienced officers from the States to the Centre and vice versa. It is our considered

view that the present pace of industrial growth and programme of future development would lead to the emergence of innumerable and complicated problems of labour-management relations, specially so because of the growing awareness of their respective rights and privileges, both by the employers and working classes. We accordingly recommend that the creation of an All-India Service of specialised officers, who are fully equipped to deal with the various facets of labour administration should be given urgent attention. The proposed All-India Labour Service may be on the same pattern as other All-India Services e.g. Indian Forest Service, Indian Economic Service and Statistics Service, etc.

Welfare Administration :

5.28. The problems of welfare administration which is an important activity of the Labour Department does not find place in the Paper, presumably because the Welfare Committee under the Chairmanship of Shri R.K. Malviya might be examining this aspect. We are, however, of the view that welfare administration forms an integral part of labour administration and if the organisational structure and activities of the Labour Department are to be examined, the welfare side of labour cannot be brushed aside completely.

5.29. In all the States of this region, Government is organising welfare activities through Labour Welfare Centres. The Welfare Centres provide number of welfare activities to workers—male, female and children. The administration of other welfare schemes like the Industrial Housing Scheme is also carried on by the Labour Department. A few States have created Welfare Funds for financing the labour welfare activities. Although the Group could not go into the details of the aspects of welfare administration, it is felt that it would not be proper to omit this aspect of administration altogether. It is the feeling of all that labour welfare has been generally neglected in most of the States. The pay scales of officers dealing with labour welfare are generally poor, compared to those who work on the enforcement of labour laws. Generally persons who have no interest in labour welfare are recruited to the welfare side. We feel that proper attention should be given to

labour welfare in the labour administration and the pay scales of the officers in charge of the work should also be improved to equate with the officers of equal status, doing the work of enforcement in the department. It is felt that officers recruited in the department, if asked to work on the welfare side for at least 2 to 3 years, the apathy to this work would shed off and the cause of labour welfare will receive adequate attention and place in the scheme of the department. Besides, an officer of the status of at least a Deputy Labour Commissioner should be placed in over-all charge of the welfare work assisted by subordinate officers to attend to the welfare properly.

Migratory Labour :

5.30. In the course of discussions, we were told that large number of labour migrates from one State to another usually in search of employment in slack seasons. A large number of Kashmiri labour annually migrate to plains in search of employment, when agricultural operations cease in the valley. From Rajasthan also, large force of labour goes in search of employment to the neighbouring States of Delhi, Punjab, Haryana and even to Kashmir and engages itself in construction work. The Government of Jammu & Kashmir set up Migratory Labour Welfare Organisation in 1961 and posted Labour Welfare Officers at Pathankot, Jullunder, Delhi, Simla and Chandigarh to look after the welfare of this class of labour and help the migrants in finding out suitable employment for them. Such organisation for migratory labour does not exist in any other State.

5.31. Though the labour which seeks employment in a particular State is regulated by the laws and rules applicable to that State, it is equally the responsibility of the State from which such labour migrates to look after the interest of such labour in the migrated State by establishing liaison with such States by appointment of officers in the Labour Department, whose function may be to register such labour and to assist in finding employment for them and also to look after their welfare and working conditions and payment of the wages. We are accordingly of the view that the conditions of migratory

labour and the steps which may be taken to improve their lot should be examined in more details, jointly by officers of the States, where such problem exists.

Co-ordination Between Different States in Regions :

5.32. We have been very much encouraged by this experience of having mutual discussions on various matters of labour administration in the course of meeting of this Working Group. This has provided an opportunity to go into details of various matters of common concern and common interest, and to gain by the experience or short-comings in each State. We are confident that this exchange of views, opinions and experience will undoubtedly help in toning up the standard of administration, proper enforcement of laws and improvement in industrial relations in the States. Regional seminars on important aspects of enforcement of labour laws and labour administration and common training programmes can be useful in toning up the quality of officers and improvement in their knowledge. We, therefore, recommend that exchange of views should be held regularly at the regional levels and also at all-India level, whenever necessary. Questions like regulation of minimum wages for parity on regional basis, implementation of new enactments and to have uniform set of rules, experience and landmarks in the field of enforcement of labour laws and administration thereof, are some of the matters, on which periodical meetings between representatives of the various States would be very much helpful.

CHAPTER VI

CONCILIATION MACHINERY

6.1. Every State is required to provide adequate facilities for the settlement of disputes through negotiation and conciliation. Conciliation through statutory government machinery clearly signifies the abandonment of the field of collective bargaining in favour of governmental control in the interest and welfare of all citizens. The essence of the conciliation procedure is the exertion or channelising of pressure on one or both parties to a dispute to procure necessary concessions for the settlement of differences. The manner of persuasion and exertion of pressure to induce the parties to come to a settlement has necessarily to be fair and amicable. The Conciliation Officer thus plays a very important role which has been discussed in detail in the following paras.

6.2. Conciliation is governed by the Industrial Disputes Act, 1947 and the Rules made thereunder. The important provisions, so far as they pertain to Conciliation Officers, are Sections 11 and 12 which *inter alia* lay down the procedure, powers and duties of the Conciliation Officers. A Conciliation Officer should, therefore, necessarily be familiar with the relevant laws and rules and the procedure of conciliation.

Qualities of Conciliation Officers :

6.3. Conciliation is an act, the successful exercise of which depends on many personal qualities. First of all, the mind of a Conciliation Officer must be free from doubt and prejudice. He must seek to clearly know the attitude of the parties on each issue under dispute. He must not play a passive role, leaving to the parties the initiative to come to an agreement. He must be in a position to make suggestions and offer advice on controversial matters. Tact, impartiality and a genuine desire to induce the parties to settle their difficulties are necessary for a successful Conciliation Officer. A Conciliation Officer must not

consider conciliation merely as a formality to be gone through before adjudication. He should try to convince the parties to the dispute that conciliation will serve their interests equally well and cost them much less in terms of time and money. He should consider conciliation as a creative process to bring two discordant parties together, settle or narrow down their differences and restore amicable relations between them.

6.4. The following observation made by K. N. Subramaniam in his book "LABOUR-MANAGEMENT RELATIONS IN INDIA" is of interest :

"The more outstanding the conciliator, the better the chances of success. They should not be mere birds of passage but should be persons who are going to make industrial relations a life-time job. Not all the intelligent and clever persons make good Conciliation Officers. The over-bearing and bossy-type will not make good conciliators. They will shout and order and achieve nothing. The weak and the timid will collapse under the weight of the burden. The tactless will complicate the issues and worsen the relationship between the employer and the union. So the persons we have in view will be those who will not shrink from difficulty and responsibility, who have adequate knowledge and experience of labour matters, who have preferably already learnt the art of conciliation, who are prepared to master the details of the case as thoroughly as the parties, who are resourceful enough to evolve opening leads, who are endowed with a capacity for infinite patience under annoying and trying conditions and whose integrity and persuasiveness will induce the parties to examine proposals which may not, at first sight, be tempting". 1

6.5. A Conciliation Officer should not only have good knowledge of law but also of industry. We are of the view that knowledge of the Conciliation Officer can be improved through training and by providing him educational opportunities for improving his skill in human relations and other fields of interest. A Conciliation Officer should be attached with a Senior Conciliation Officer to be made to gain first-hand know-

1. K. N. Subramaniam, Labour Management Relations in India, Page 585.

ledge in the art of conciliation. Frequent exchange of experience between the Conciliation Officers of various States would also be fruitful. The Conciliation Officers should be kept up-to-date by being deputed to attend seminars and conferences frequently. The Group also feels that Conciliation Officer should look after only conciliation and other incidental work like assistance in collective bargaining, grievance procedure and implementation of awards, settlement etc., but normally he may not be burdened with other administrative or enforcement work of the Department.

Status of the Conciliation Officers :

6.6. It is essential that officers of sufficient experience and qualifications are appointed as Conciliation Officers. Good conciliation officers will have to be paid much higher salary than they are paid now. It is said that one of the reasons for the failure of conciliation machinery is the poor pay and status of the Conciliation Officer within the hierarchy of Government vis-a-vis the parties which are required to appear before him. It would be useful, therefore, if the status of the Conciliation Officer is improved. Persons appearing before a Conciliation Officer are invariably highly paid in comparison to his own pay and status. Though it would not be possible for Government to enhance their grades of pay to bring them at par with the pay scales offered by the private sector, it is nevertheless felt that the status of the Conciliation Officers should be improved and their minimum pay-scale should not be less than Rs. 300-900. We are of the view that powers of Conciliation Officer should not generally be given to the officers holding pay scale lower than Rs. 300 to 900 or below the rank of Assistant Labour Commissioners, and if it is at all desired to employ other officers, e.g., Labour Welfare Officers or Labour Inspectors as Conciliation Officers, they should initially be asked to take up conciliation of individual disputes and disputes of a minor nature, with the object of giving them the much-needed experience.

Powers of Conciliation Officers :

6.7. The Conciliation Officer has been given powers under section 11 of the Industrial Disputes Act, 1947. He may, for

the purpose of enquiry into a dispute, enter the premises of the employer after giving a reasonable notice. He may call for and inspect any document which he has ground to consider to be relevant to the industrial dispute or for the purpose of verifying the implementation of any award or carrying out any other duty imposed on him under this Act. He enjoys some powers of Civil Court in respect of compelling the production of documents and material objects. The Conciliation Officer has no power of securing the attendance of the parties. It has been suggested that the Conciliation Officer should be given power of summoning the parties in conciliation proceedings so that he may be more effective. We are of the view that the Conciliation Officer acts as a mediator and his being vested with powers of a Civil Court would jeopardise his role as a conciliator and will turn him into a Court. We are, therefore, of the view that no change is called for in the powers of the Conciliation Officer, as given under the Industrial Disputes Act and the rules made thereunder.

6.8. Another question which came up before us was whether a Conciliation Officer should act as an Arbitrator, specially in cases of individual disputes. An arbitrator has to decide the dispute in favour and against a party, after examining the merits of the dispute. We are of the view that a Conciliation Officer who has undertaken conciliation proceedings in respect of a dispute should not be an arbitrator in the same case. We feel that a conciliation officer should not play the role of an arbitrator as by doing so, he shall be compromising his image of being impartial, having to give a verdict against one party or another. We, however, feel that there should be no bar to a conciliation officer to act as an arbitrator in other cases provided that the parties to the dispute move him to accept such responsibility and he himself has no objection in accepting it.

Delay in Conciliation :

6.9. A patent criticism of the conciliation machinery is the delay in the finalisation of conciliation efforts. Under law, it is provided that a Conciliation Officer shall submit his report within 14 days, but in actual practice this is never possible or

practicable. Time taken in conciliation is generally much more. The effectiveness of conciliation suffers, if long delays are involved in the process, and the workers rightly feel that delay in conciliation amounts to denial of justice to them. In many cases, delays are unavoidable; for example, a conciliator handling a case may ask for some information from the parties which might not be forthcoming readily. Sometimes adjournments are sought both by employers and workers and are granted by mutual consent. On occasions a party asks for an adjournment and the other agrees. The statement given below gives an analysis of the time taken by Conciliation Officers in the settlement of disputes in the various States of this Region.

TABLE IX
ANALYSIS OF THE TIME TAKEN BY CONCILIATION OFFICERS IN SETTLEMENT OF DISPUTES IN THE REGION

	1965		1966			1967	
	U.P.	Rajas- than	U.P.	Rajas- than	Pun- jab	U.P.	Rajas- than
Below 1 month	3809 (84.85)	99 (36.00)	3562 (84.39)	158 (37.62)	202 (39.00)	417 (92.53)	129 (42.85)
Between one and 2 months	338 (7.53)	42 (15.02)	440 (10.42)	102 (24.29)	150 (28.70)	179 (3.97)	40 (13.28)
Between 2 to 3 months	128 (2.86)	30 (10.90)	119 (2.82)	70 (16.66)	85 (16.00)	93 (2.62)	43 (14.28)
Between 3 to 6 months	164 (3.65)	56 (20.36)	81 (1.92)	58 (13.80)	71 (13.60)	47 (1.42)	47 (15.61)
Between 6 to 12 months	37 (0.82)	30 (10.90)	19 (0.45)	25 (5.95)	13 (2.50)	12 (0.26)	16 (5.31)
Over one year	13 (0.30)	18 (6.82)	—	7 (1.68)	1 (0.20)	5 (0.11)	23 (1.04)

Note:—Figures in brackets show the percentage.

6.10. The above statement would indicate that in most of cases the time taken by the Conciliation Officers was less than one month, only a few cases took about two months, and the number of cases which took more than two months is not significant.

6.11. Normal reasons of delay in conciliation are the inadequacy of staff, excessive jurisdictions of the Conciliation Officers and other administrative responsibilities which they have to look after, besides their basic charge. In some States, the Conciliation Officers are also working as Authorities under the Payment of Wages Act and the Minimum Wages Act, as Workmen's Compensation Commissioners etc. They, therefore, do not find sufficient time for conciliation work. The time taken in conciliation proceedings in the public sector is also generally more than in the private sector, because the public sector managements are not able to give prompt replies to the conciliator or take decisions because they have to consult higher levels in the Administrative or the Finance wings of their organisational set-ups.

6.12. Sometimes the time element works against the Conciliation Officer. The Conciliation Officer may have to exert pressure on a party and if given suitable time, he might be able to effect a settlement.

6.13. We are of the view that normally the time taken in conciliation should not be more than a month. If the conciliation proceedings are to be continued beyond this period, it should be with the consent of the parties. Delays can be reduced by placing in position adequate number of experienced officers.

Assessment of the Working of the Conciliation Machinery :

6.14. In assessing the work of the conciliation machinery, one has to examine the percentage of cases in which the Conciliation Officer was successful as against the percentage of cases in which he had to send a failure report. This is given in the Table in the next page.

6.15. The overall position is that a Conciliation Officer is not successful in about 32 % of cases of disputes. This percentage does not include cases which are withdrawn or settled outside the court, though even the withdrawal of cases from conciliation, are, on occasions, due to the efforts of the Conciliation Officer.

TABLE X
INDUSTRIAL DISPUTES REFERRED TO CONCILIATION
AND ADJUDICATION IN VARIOUS STATES, 1966.

Name of States	Referred to Industrial Relations Machinery	Reported to have failed at conciliation	Percentage of disputes resulting in failure	Referred for adjudication	Referred for arbitration
1	2	3	4	5	6
Centre	5995	760	13 %	225	108
States					
1. Haryana	753	238	32 %	75	8
2. Punjab	1964	609	31 %	172	16
3. Rajasthan	448	131	29 %	97	2
4. Uttar Pradesh	4422	1824	41 %	594	60
5. Delhi Adm.	2178	621	29 %	310	38
6. Himachal Pradesh	NA	NA	NA	NA	NA
7. Jammu & Kashmir	NA	NA	NA	NA	NA

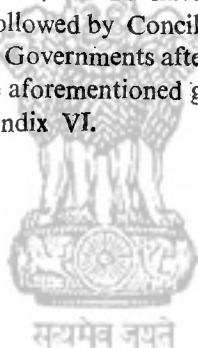
Source :—Pocket Book of Labour Statistics, 1967 and Labour Commissioner, Uttar Pradesh.

Attitude of Parties towards Conciliation

6.16. Parties to conciliation sometimes feel that conciliation proceedings are merely a step to be crossed over for reaching the next stage i.e. adjudication. The parties, therefore, sometimes do not take sufficient interest in conciliation, regarding it as a mere formality to be gone through, and therefore, do not send duly empowered representatives, who have a final say in the settlement of a dispute, to appear before the conciliation. The employers normally do not disclose needed information during

conciliation and also do not make any commitments in the apprehension that their commitments might be taken up as arguments against them in adjudication. Such instances are quite common, but these do not reflect the real attitude of the parties towards conciliation. A tactful Conciliation Officer can definitely succeed in resolving such hesitations of the employers.

6.17. It would be fruitful to follow a well-defined procedure in admitting a dispute in conciliation during conciliation proceedings and at the time of submission of reports indicating failure or success of conciliation efforts. We feel that the following of a consistent and known procedure by the Conciliation Officer would go a long way in strengthening the belief in conciliation of the parties in dispute. We have accordingly gone into this matter in detail and have attempted to suggest model guidelines to be followed by Conciliation Officers, which may be adopted by State Governments after suitable modifications to suit local needs. The aforementioned guidelines are contained in the note under Appendix VI.



CHAPTER VII

SPECIAL PROBLEMS OF LABOUR ADMINISTRATION

7.1. We shall now deal with some special problems of Labour Administration to which a reference has been made in the Paper. These are :

- (i) problems of Public Sector Undertakings;
- (ii) problems of Small Units and unorganised sector;
- (iii) problems of implementation;
- (iv) discretionary powers of Government.

Problems of Public Sector Undertakings :

7.2. Public Sector undertakings are organised in three forms. These are :

- (i) Departmental Undertakings ;
- (ii) Government Companies, and
- (iii) Statutory Corporations under the Central or State Government.

Employments under the above categories may be of both industrial and non-industrial type. We are, however, concerned only with the industrial sector.

7.3. From the point of view of applicability of the labour laws, there cannot be any distinction between the public and private sector undertakings. The policy of Government for the application of labour laws, as set out in the Five Year Plans, envisages that public enterprises will conduct themselves as progressive employers, serving as a model for the private sector. The Second Five Year Plan recommended that "there should be no attempt on the part of any public sector employer to evade the responsibility on the ground that he is not working for profit. The managements of public sector undertakings should not normally seek exemptions from Labour Laws or ask for other concessions,

not available to the private sector.” It was also pointed out, “that administrators handling such problems have to be specially watchful of labour interests.”¹ The Third Five Year Plan further emphasised that, “the employers of the public sector have a special obligation to follow labour policies, which are conducive to securing and keeping a competent working force at reasonable cost”² The 16th Session of the Labour Ministers’ Conference (January, 1960) reiterated that there should be uniform standards for the enforcement of labour laws in the public and private sectors and that the public sector should function as an enlightened and progressive employer serving as a model for the private employer.

7.4. We are of the view that the declared policy of Government should be translated into actual practice. Efforts should be directed towards ensuring that the policy of non-discrimination between the private and the public sectors in the matter of application of labour laws is pursued vigorously. The employers in the public sector invariably seek exemptions from certain legal obligations. There is a general impression in the minds of the public servants, who run most of the projects in the public sector, that the achievement of rapid progress by their units is more important than strict adherence to laws and regulations. The argument that public sector undertakings are not based on profit motive and are socially-oriented is also advanced to seek exemptions from certain legal obligations. It is also argued that the privileges enjoyed by the workers in the public sector are, over-all, far better than those enjoyed in the private sector. These arguments cannot be accepted for allowing exemptions from obligations under the labour laws. A law only lays down the minimum requirements and in case it is alleged that the conditions available in the public sector are better than those provided under the law, the need for seeking exemptions should hardly ever arise. The argument that public sector undertakings do not work for profit motive is also not tenable, because these undertakings are expected to create surpluses and run profits to develop and enlarge in size and productivity.

-
1. Second Five Year Plan—Pages 572-577.
 2. Third Five Year Plan—Pages 253-273.

7.5. In spite of the declared policy of strict implementation of labour laws in the public sector, there has been cause for a good deal of criticism on this score. These deficiencies are generally due to a lack of knowledge and understanding of the provisions of the various labour laws and other non-statutory obligations which the managements have to satisfy. In their report on "Personnel Policies of Public Sector Undertakings", the Estimates Committee of the Parliament have observed that "the absence of an efficient and effective Personnel Deptt. in the undertakings has to some extent been responsible for the lack of proper attention to even elementary things like the adoption of standing orders, drawing up of a Grievance Procedure, etc."¹

7.6. The problem was also discussed in 24th Session of the Indian Labour Conference (July, 1966). "It was urged that the Public Sector Undertakings should ensure full compliance with the requirements of labour laws"². It was proposed that there should be a "Review of Industrial Relations in each public sector undertaking at least once in three years". We are of the view that such reviews, which may be conducted by the State Labour Commissioners, would be useful in locating the specific areas of non-implementation of labour laws and in ascertaining the reasons and remedies for improvement of industrial relations in the undertakings. We also feel that the basic factor on which healthy labour-management relations rest is the prompt and effective discharge of their statutory obligations by the employers.

7.7. One of the reasons of non-implementation of labour laws in the public sector undertakings is that the employers in the public sector invariably, being public servants under Section 21 of the I. P. C., cannot be prosecuted without obtaining the specific sanction of the Government, which cannot be procured easily. These officers are, therefore, inclined to show a complete indifference to the suggestions given by the officers of the Labour Department or the remarks recorded by them at the time of inspections. We are of the view that the employers in the public

-
1. Para 237 of the Report of the Estimates Committee (March, 1964).
 2. Tripartite Conclusions—1942-67, pp. 93.

sector should also be liable to prosecution in the same manner as private sector employers and Government should not hesitate in giving permission to prosecute functionaries of these units, who do not care to satisfy the various provisions of labour laws.

7.8. The policy of the Government regarding industrial relations makes no distinction between the enterprises in the public and private sectors. The Supreme Court has also observed in a case : “that the Industrial Disputes Act embodies certain principles which ought to regulate relations between employer and employees. There is no reason why as many workmen as possible should not obtain the benefit of the rights and safeguards given to workmen under the Act. There is also no reason why, unless the Act expressly so provides, the Government should be given immunity from the provisions of this Act.” The public enterprises represent social property and the managements act as agents of State charged with the management of this social property in the collective interest. The managements must, therefore, take care in detecting causes of dissatisfaction and be prompt in initiating speedy measures to remove the same. We feel that the managements of the public sector have to discharge their obligations with exceptional care and should adopt an enlightend policy in labour matters.

Difficulties faced by Public Sector Undertakings :

7.9. The managements of public sector undertakings are generally faced with procedural difficulties in obtaining financial or other sanctions from their organisational headquarters or on certain occasions from the concerned Ministry or Department. It is for this reason that representatives of public sector undertakings are usually hesitant in taking quick decisions and often express their helplessness during negotiations or conciliation proceedings. In our view, it is necessary to vest the officers on the spot with adequate authority and if such officers are allowed to exercise this authority a great deal can be achieved to eliminate delay in the settlement of workers' grievances and disputes thus promoting the cause of successful negotiations and conciliation.

-
1. The State of Bombay Vs. Hospital Mazdoor Sabha AIR 1960, SC—160.

7.10. Criticism is often heard that in reference of disputes to adjudication, Government discriminates between the public and private sector. In case of private sector, the disputes are referred on a consideration of the factual and confidential reports received from the conciliation officers. However, in the case of public sector undertakings, the factual report is sent for comments to the concerned administrative department or the Ministry, and ultimately back to the officer who represented the enterprise in the conciliation proceedings. This results not only in inordinate delay in the reference of the disputes to adjudication, but also places the Conciliation Officer in an awkward position. It is, therefore, suggested that Government should follow uniformly, in the case of public sector undertakings, the principles for reference of disputes to adjudication adopted at the 17th Session of the Indian Labour Conference. Even if the comments of the administrative department or the concerned Ministry are to be invited, a time-limit of not more than one month within which the comments may be sent should be laid down. If no comments are received within this period, the Labour Department should be free to take a decision on the merits of each case.

7.11. As already mentioned in para 4.11 of this Report, the settlement of disputes in public sector undertakings in Uttar Pradesh is carried out through the Works Councils, a permanent Conciliation Board and the High Power Committee. This is slightly different than the procedure followed in private sector undertakings. This is a special feature only in Uttar Pradesh. The Group feels that it would be desirable to have uniformity in the procedure for settlement of industrial disputes in the private and the public sectors.

7.12. In addition to the suggestions made above, we considered some other suggestions to improve labour-management relations and enforcement of labour laws in public sector undertakings. These are dealt with below :

(a) Strengthening of Personnel Department :

The public sector undertakings should take steps to strengthen their personnel departments. The Personnel Managers/

Officers should be trained in labour laws and labour-management relations so that an officer who is professionally qualified and equipped with sufficient experience in labour-management relations should be available on a senior position for the Personnel Department: We also feel that the Personnel Manager/Officer should be in a position to directly consult the Chief Executive of the undertaking in case he feels that his advice is unjustifiably disregarded by any intermediary authority.

(b) Fuller Use of the Services of Labour Officers and Conciliation Officers :

The managements of the public sector enterprises usually do not give any importance to conciliation proceedings and therefore do not seek the help or advice of Conciliation Officers in resolving their disputes with their workers. We feel that the Conciliation Officers provide a useful service in bringing the two parties together and the public sector would be well-advised to take help of the Conciliation Officers and the machinery provided by the Labour Department in the settlement of disputes and improvement of labour management relations.

(c) Prompt Attention to the Grievances of Workers :

It is necessary to take measures to ensure that the just grievances of workers are satisfactorily redressed and the awards of Tribunals, recommendations of Wage Boards are expeditiously implemented. The main cause of discontentment among the labour of the public sector undertakings is that prompt attention is never given to the settlement of grievances of the workers. It is recommended that public sector undertakings should have a Grievance Machinery in consultation with the workers' representatives and full use should be made of such machinery, so that the difficulties of the workers are dealt with without any time lag. The Grievance Machinery should be simple and expeditious and a time-limit should be placed for the disposal of grievances at every stage, which should be strictly adhered to.

(d) Greater Recourse to Voluntary Arbitration for the Settlement of Disputes :

We feel that the public sector should take increased recourse to mediation and voluntary arbitration for the settlement of disputes. Even though it may not be possible to agree to refer all disputes to voluntary arbitration, matters of local interest could definitely be settled through arbitration.

(e) Effective Machinery for Joint Consultation :

We are of the view that joint consultation between the management and workers provides the most effective means of communication within an enterprise. For this purpose, Works Committees should be formed and should be allowed to work effectively. Works Committee meetings should be taken by the management as opportunities to inform the workers of their plans and difficulties and to explain the reasons for the changes being initiated. The Joint Consultation Machinery in the form of other bipartite committees, e.g., Safety Committees, Welfare Committees etc., should also be provided. Each undertaking may also have a Permanent Negotiating Machinery consisting of the representatives of the employers and the workers nominated by the recognised union. All disputes should first be discussed by the Joint Negotiating Machinery and only when this machinery fails in the settlement of a dispute, the matter should be taken up in conciliation or referred to adjudication by the Government. Public enterprises should also take lead in setting up Joint Management Councils in the proper spirit and perspective for maximising co-operation between the workers and management.

(f) Proper Communication :

The importance of communication in relation to the size of the enterprise should be properly realised. Due to their large size and complexity of organisation, the public sector enterprises have invariably to face problem of securing good human relations. Inadequate communication is bound to result in a good deal of misinformation among the employees. It is felt that the attainment of higher morale, discipline and improved incentives largely depends on facilitating and developing communication within

the enterprise. There is need to instil in the workers a sense of partnership and pride in public sector enterprise and a sense of responsibility for its efficiency and well-being.

(g) Interest in the Welfare of Workers :

In our view, it is of great importance for the management to have and to show a lively interest in the welfare of the employees. The promotion and training policies should be so devised as to convince the workers of the interest that the management has in developing their skill and qualifications and in improving their prospects and standard of living.

Problems of Small Industrial Sector :

7.13. As stated in a foregoing para, this region has a preponderance of small units. The problems of labour administration in the small industrial sector, therefore, calls for a special mention. We have not attempted to define what a small unit is. In a highly complex and capital-intensive industrial system, the number of workmen will not provide a suitable criteria. We generally include in the small industrial sector such units which are owned by small entrepreneurs and where the workers are usually small in number and unorganised. Even some of the employers are illiterate and are not familiar with the provisions of labour laws. In many cases, small units are dispersed over a wide area, making inspections difficult. The workers, being unorganised, are not in a position to complain to the machinery of the Labour Department for the redress of their grievances. This sector is important as a very large section of the workers is employed in small units. To look after their welfare is also the duty of the State.

7.14. Some of the important administrative problems of the small units which have come to the notice of the Group are discussed below :—

(a) On many occasions, deliberate attempts are made by the employers to deny to the workers the benefits flowing to them under the law by sub-dividing their enterprise into small units in order to evade enforcement of legal provisions. Under certain

laws, like the Factories Act and the Motor Transport Workers Act, the law is applicable on the basis of number of workmen employed. The attempt on the part of the employers is to show the workers' strength below the exemption limit. This can be checked if adequate inspection machinery is provided, which undertakes surprise inspections. It is also necessary to plug the loopholes in the laws to check such evasions. The aim should be to ultimately cover every form of employment, other than domestic employees, under the purview of the labour laws.

(b) In small units, most of the managements are not aware of their obligations under the various labour laws. Workers cannot agitate about the violation of the provisions of law, because they are unorganised and are also not fully aware of their rights. It is, therefore, necessary to educate both employers and workers of small units about their rights and obligations.

(c) At present a number of labour laws are applicable to small industrial units, e.g., Minimum Wages Act, Shops and Commercial Establishments Act, Factories Act, Payment of Wages Act, etc. The managements of these small undertakings have to maintain various types of records and registers under each law. The employers and the managers, because of their low standard of education, are sometimes not able to appreciate the significance of the maintenance of records and despite genuine efforts may not be able to maintain the records properly. The entrepreneur/manager has also to encounter difficulties as various laws are administered by different authorities and a number of inspecting authorities visit his establishment for carrying out inspections. We are of the view that as far as possible one Inspector may be given powers of inspection under various laws, so that a small entrepreneur has not to satisfy a number of diverse authorities.

(d) Sometimes the small sector employers face genuine difficulties in implementing the provisions of law. Employers may not be able to implement one or more provisions of law as they have to operate with limited funds as there is a pressure on the managements to utilise these funds in more productive ways. In some cases there may be deliberate evasion of inspections and obstruction in the work of the inspecting staff. The inspecting

staff should deal each case on its merits. They should appreciate the genuine difficulties of the employers and try to educate them in the first instance, but where they find that there is deliberate defiance of law even after issue of warnings they should not hesitate from taking suitable action against such employers.

7.15. The Group, after consideration of the above-mentioned problems of labour administration pertaining to the small industrial sector, feels that there is no doubt that the labour employed in the small and unorganised sector needs much more protection than the labour employed in the organised sector, which is in a better position to look after itself. The difficulties of the small entrepreneurs who are required to deal with a host of inspectors to maintain various records and registers and implement complicated laws which were primarily enacted for organised industries, should, however, be appreciated. We are of the view that there should be a separate legislation for the small industrial and unorganised sector, which might cover the important provisions of the Minimum Wages Act and include salient provisions covering health, safety and welfare of workers. It is also felt that the implementation of labour laws in small undertakings can be improved only if adequate inspectorate staff equipped with transport facilities is provided for and placed in position.

Problems of Implementation :

7.16. The problems of implementation are of three kinds :

- (i) non-implementation of labour laws;
- (ii) non-implementation of agreements, settlements and awards; and
- (iii) non-implementation of voluntary codes.

Non-implementation of Laws :

7.17. The problems of non-implementation of labour laws have been dealt with earlier and specific recommendations have been made to improve the position regarding enforcement of important laws by providing adequate machinery and also by amending every statute to remove its deficiencies.

7.18. It was suggested in a seminar on "Administrative

Dimensions of Labour Laws" that "trade unions can be watchdogs for the implementation of labour laws and accordingly it might be desirable to develop a suitable organisational structure for co-ordinating the interests of trade unions with those of Governmental Machinery." If the plea that the unions should function as supervisors for the implementation of labour laws is accepted, the situation will improve only in the organised sector of industry and not in the small units and the un-organised sector. The record of compliance of labour laws in the organized sector is comparatively better. As discussed earlier, the compliance can be secured in the unorganised sector also by providing an administrative set-up for enforcement, commensurate with the growth of small-scale or un-organised sector of industry. The inspecting staff may be asked to pay more attention to the implementation of laws in the small industrial sector on the assumption that the workers in the large and organised sector can be expected to take care of themselves. This will also reduce the burden on the inspecting machinery.

7.19. Another suggestion regarding the implementation of labour laws is that the labour legislation should be made self-enforcing i.e., the workers' organisations should be given powers to directly approach the courts for the redress of their grievances. It will however have to be decided whether such power may be given only to the recognised union or to all unions. Under the present system, complaints can be made to the courts by or under the authority of the State Government concerned. We are of the view that in the present state of development of trade unionism in the country and in context of inter-union and intra-union rivalries, the vesting of powers in all unions for direct approach to the courts will not be proper and practicable. Such power can be exploited by the unions to harass the employers. If this happens, vexatious and frivolous cases may be filed by the workers' organisations and the labour-management relations may deteriorate further. We, therefore, feel that the present procedure of sanctioning and filing of prosecutions for breach of labour laws should continue. It should be the responsibility and duty of the enforcement machinery to file prosecutions before the appropriate authority. Definite administrative instructions may be laid

down in this connection to minimize the discretion exercised by the enforcement staff in filing prosecutions. It might be desirable to lay down a procedure that the inspecting officer should procure sanction from his higher officer to file a prosecution. This will help in examining the propriety of the case and avoidance of frivolous cases. This will also be useful in having a uniform policy for launching of prosecutions.

7.20. Where the law provides, as under the Industrial Disputes Act, 1947, that complaints can be filed by or under the authority of the appropriate Government and where a workers' organisation or the workmen approach the Government for sanction to file prosecutions for breach of particular provisions of law or non implementation of awards, settlements or agreements, each may be examined by the Government and it can accord sanction on the merits of each case to the union or the workman to file a complaint. This practice may be increasingly used. This will also reduce the burden on the administrative machinery and throw the responsibility of proving its case on the party, making a request for permission to prosecute the employer. At the same time, it will avoid frivolous and vexatious prosecutions.

7.21. Under the Industrial Disputes Act, 1947, the powers of reference of a dispute to adjudication vests in the Government. In case the Government is satisfied that there is no case for reference, it is bound by law to inform the parties of the reasons on the basis of which such a decision has been arrived at. The Group feels that this procedure should continue and the workman or the union should not have power to approach the Tribunal or the Labour Court directly for adjudication of a dispute except under limited circumstances as provided under Sections 33 and 33A of the Industrial Disputes Act, 1947.

7.22. In Uttar Pradesh, the State Government lays particular emphasis on securing implementation of agreements, settlements and awards etc. expeditiously and without delay. This is done through the Regional Offices of the Labour Department. One of the very important and regular duties of the Regional Officers is to keep close watch and vigorously pursue implementation of settlements and awards etc. in the normal course without

waiting for receipt of complaints of non-implementation. The constant endeavour is to get all those awards and settlements implemented, the operation of which has not been stayed by any competent Court. Recovery certificates for money due under awards and settlements are also issued without any delay by Regional Assistant Labour Commissioners who are empowered for this purpose. They also recommend prosecution of recalcitrant and obstinate employers who flout awards etc. despite persuasive efforts. Progress of implementation is reviewed by Labour Commissioner also in periodical meetings of Regional Officers. Section 5D of the U. P. Industrial Disputes Act, 1947 confers special powers on Conciliation Officers to call for and inspect any documents for purposes of verifying implementation of awards and for this purpose they are vested with powers of Civil Courts for compelling production of documents. Similarly, under Section 8 of the Act the State Government have authorized various Officers of the Labour Department (i) to require by order any person to furnish/produce any relevant information for purposes of the Act and for enforcing such order (ii) also to enter/search any premises or to inspect and seize any books, documents or articles. This machinery has worked very effectively in securing implementation of agreements and awards.

Breach of Awards, Settlements or Agreements

7.23. We have been informed that there is a growing tendency on the part of the employers to evade the implementation of awards, agreements or settlements. The Industrial Disputes Act provides not only for a penalty for the breach of a settlement or award under Section 29 of the Industrial Disputes Act, 1947 but also the machinery for recovery of money due from employer under a settlement or award under Section 33C of the Act. One of the primary duties of the implementation machinery available in every State is to enquire into the complaints of non-implementation of awards or settlements and to persuade the concerned party to implement it. This is a voluntary machinery and is not setup under any particular law, nor it is vested with any legal powers. We feel that the implementation of settlements or awards etc. can be improved, if instead of the existing voluntary machinery, a suitable statutory machinery is

provided under the Industrial Disputes Act to watch the implementation of settlements or awards and take appropriate legal action against defaulters. The Conciliation Officer who has been made responsible for effecting the settlement or before whom an agreement is registered and other enforcement staff, should be appointed inspectors under the proposed machinery for looking after the implementation of the awards, settlements etc. The inspectorate staff should watch their implementation even when no complaint is received. The Government also should make liberal use of their powers to sanction prosecutions for breach of awards, settlements etc. and give sanctions to the affected parties to file prosecutions under Section 29 read with Section 34 of the Industrial Disputes Act.

7.24. The Group also discussed the present procedure regarding the recovery of money due to workmen under a settlement or an award etc. Under the present procedure laid down under Section 33C of the Industrial Disputes Act, 1947 the workman or any other person authorised by him in this behalf may make an application to the appropriate Government for the recovery of the money due to him and if the appropriate Government is satisfied that any money is so due, it shall issue a certificate to the concerned Collector of the district who shall proceed to recover it in the same manner as an arrear of land revenue. Under the U.P. Industrial Disputes Act, the senior officers of the Labour Department have been given powers to issue recovery certificates. This procedure is, however, not expeditious. Recovery proceedings in the normal course take a long time. It is, therefore, suggested that powers may be given to the Industrial Tribunal or the Labour Court to recover the amount due under the Act in the manner provided for the recovery of fines under the Code of Criminal Procedure 1898, as if it were a criminal court, as has been provided under the Madhya Pradesh Industrial Relations Act, 1960. Since the setting up of a suitable machinery will be required for recovery proceedings, the Group recommends that the Tehsildars (Recovery) in adequate number may be appointed to function under the administrative control of the Labour Courts or the Tribunals for expediting pending recoveries. We also recommend that there should be a provision under the

Industrial Disputes Act on the lines of Section 17A of the Payment of Wages Act, 1936, for attachment of the property of the employer against whom recovery proceedings have been filed.

Implementation of the Code of Discipline :

7.25. The Code of Discipline in Industry was accepted and ratified by the organisations of employers and workers at the 16th Session of the Indian Labour Conference at Nainital in May, 1958. The Code enumerates certain rights and obligations of the employers and the trade unions and places certain duties on the Government. The Code is not a law. The importance of the Code lies in the fact that obligations are voluntarily accepted and the rights are voluntarily conceded. The Code also indicates the machinery which is to look after its implementation. The machinery is to be set up by the Government both at the Centre and in the States. It consists of a special officer (to be known as Implementation and Evaluation Officer) to enquire into complaints of contravention of the Code and the setting up of a tripartite committee.

7.26. In Rajasthan, initially, an officer of the status of an Assistant Labour Commissioner was appointed as Implementation and Evaluation Officer, but later on this post was abolished as a measure of economy. There is, however, a State Level Implementation and Evaluation Committee and also Regional Committees for looking after the implementation of the Code etc. but these have not worked well because of the apathy shown by the employers' representatives and the difficulties faced regarding the representative status of workers' representatives. In Punjab, it has been reported that the Code of Discipline has not made any significant impact on the industrial relations in the State. The inspectorate staff of the Department have been made responsible for the implementation of the Code as well as settlements of awards etc. The State Government has also constituted a State Tripartite Evaluation and Implementation Committee on the pattern of Central Evaluation and Implementation Committee. In the absence of a suitable Implementation Machinery with adequate staff at

its command, the achievements have not been satisfactory. In Haryana, there is no separate machinery for the implementation of the Code. Implementation work has been entrusted to the Labour Inspectors. Currently a proposal is pending consideration to appoint a separate whole-time Implementation Officer. The State Evaluation and Implementation Committee has also been constituted to ensure prompt implementation of awards, agreements, etc., and the Code of Discipline. In Uttar Pradesh, the State Government established an Implementation and Evaluation Board in 1960 with the Labour Minister as Chairman. This Board is reported to have played a useful role in fulfilling the objectives of the Code of Discipline in industry. The Board has been particularly successful in the matter of bringing about "out-of-court" settlements in writs filed by the employers. In Delhi, it is reported that the Code of Discipline has been generally effective in maintaining industrial peace and minimising recourse to agitations and stoppages of work by workers. The Implementation and Enforcement Machinery has also been appointed and is reported to be doing good work. However, there have been some limitations on account of inadequacy of staff. In other States of this region, no implementation machinery has been created.

7.27. The responsibility for the implementation of the Code of Discipline and other voluntary measures, like the Industrial Truce Resolution, rests primarily with the parties concerned i.e. the workers, employers and the Government. Certain sections of the Code of Discipline worked well for sometime, but it is now increasingly felt that the parties to the Code did not enter into these arrangements with all the frankness that was required to make it a success. Each party sought some advantages in the beginning and agreed to abide by the Code but subsequently implementation difficulties arose and each party began to cast blame on the other regarding its non-implementation.

7.28. We are of the view that statutory provisions should be made in the various laws to enforce the provisions of the Code of Discipline. No separate machinery will be useful nor

is it required for this purpose, as it will not have any sanction of law behind it. The Group feels that voluntary arrangements can succeed only in an atmosphere where voluntarism has been built-in in the industrial relations system. To accept the voluntary approach in an atmosphere of mutual distrust will not be fruitful. Distrust has been the root cause of failure of voluntary efforts by the parties, whether it is at the level of the Government, the employers or the workers.

7.29. Van D. Kennedy in his book "Unions, Employers and Government" has made the following observation regarding the working of the Code of Discipline and Implementation Machinery : "However, is the effectiveness of the Code at all equal to the seriousness of the problems at which it is aimed ? On the strength of our knowledge of the realities of individual and group behaviour, we can almost be certain that it is strong interests that prevail over moral sanctions in governing human conduct if sanctions are not supported by deeply held moral convictions...."

Working of Tripartite Machinery :

7.30. A brief mention may also be made about the working of tripartite machinery in this region. In all States and administrative units in this region except Jammu and Kashmir, tripartite committees have been constituted. All States, except Himachal Pradesh and Jammu & Kashmir, have a State Labour Advisory Board and Standing Labour Committees. These Boards and Committees are advisory in character.

7.31. In Uttar Pradesh the tripartite machinery has since long been utilized for providing a democratic basis for regulating industrial relations in general. Whenever any important matters needed consideration, the same were discussed by calling conferences and committees consisting of representatives of the industry as well as the workmen and all important aspects of industrial relations were regulated by associating the representatives of the parties. In this connection, Sugar Industry needs specific mention where the dispute regarding bonus has been settled by appointing a tripartite committee

year after year. The Standing Orders and other matters regulating the service conditions of workers in the Sugar Industry have also been settled by tripartite negotiations. In textile and electricity undertakings also, tripartite machinery has been utilized for settling important matters. The recommendations of the various Wage Boards, such as Sugar, Textile and Engineering Industries were also enforced by Government by orders passed under the U.P. Industrial Disputes Act after the same were considered in tripartite conferences. In short, the democratic principle of having tripartite consultations on all major issues affecting labour policy and administration in the State is being practised in Uttar Pradesh since long and concerned parties are provided an opportunity of having their say in the determination and execution of labour policy.

7.32. Van D. Kennedy says this about tripartism : "Under tripartism, these three do not do anything but they try to advise about anything. Then representatives sit together in one kind of meeting or another, and strive to reach consensus; they study problems, and when they can agree they make recommendations".¹ It is reported that tripartite deliberations, on the whole, have been useful in implementing and shaping important aspects of labour policy. The conclusions and decisions arrived at in the tripartite bodies in which the parties get full representation have a moral sanctity behind them. By and large, therefore, these decisions are sought to be implemented voluntarily without any coercive action on the part of the Government. However, there are occasions when the State Governments have to adopt measures for securing the implementation of these decisions. One of the reasons on account of which difficulty is sometimes faced in securing effective implementation of the tripartite decisions is that employers' and workers' organisations are not always in a position to exert any pressure on their constituents. Moreover, a large number of employers' and workers' organisations are not members of any All-India or State-level organisation of employers and workers and do not feel bound by the tripartite decisions. The Group feels that generally tripartite deliberations can and do play

1. Van D. Kennedy—Unions, Employers and Government (1966) P.—74.

an important part in shaping labour policies. If the State Governments feel that important decisions and recommendations of the tripartite bodies are not being implemented, they may consider enforcing such measures by legislation.

Implementation of Wage Board Recommendations :

7.33. Fourteen Wage Boards constituted by the Central Government have submitted their reports so far. The State Governments in the region have tried to ensure implementation of the recommendations of the various Central Wage Boards. In certain cases, Governments have been successful in securing full implementation of the recommendations of these Wage Boards but in certain other cases, particularly in the case of Engineering Wage Board, the implementation has not been successful. The problem of implementation of the Wage Board recommendations and other related questions regarding the constitution of the Wage Boards and the procedure to be followed by them have been examined by a separate Committee appointed by the Commission. We, therefore, do not wish to go into the details of these matters.

7.34. If the recommendations of the Wage Boards, which are announced after careful consideration, are not accepted and implemented by the parties, enormous resentment and dissatisfaction is created in the minds of the workers. It is also difficult for the labour administrators to enforce these recommendations without any legal sanction. Initially, when the Wage Boards were appointed, the employers generally agreed to enforce the recommendations voluntarily but gradually their attitude has stiffened and a situation is now developing when the employers are trying to delay the implementation of the recommendations on one pretext or the other, causing much labour unrest.

7.35. We feel that the recommendations of the Wage Boards should be made statutorily binding on the parties. We were informed that in the State of Uttar Pradesh, Government have enforced recommendations of the Wage Boards statutorily exercising powers vested under Section 3 of the U.P. Industrial Disputes Act, 1947. The Group agrees with the recommendations of the Committee on the Functioning of the System of Wage Boards that

suitable "provisions should be made in the relevant Central and State laws to make Wage Board recommendations accepted by Government statutorily enforceable in all the States."

Discretionary Powers of the Government:

7.36. The use of discretion in administration is almost inherent. In the administrative and executive field, discretion plays an important role. In case of implementation of labour laws and labour-management relations also, where human element is more pronounced, discretion cannot be taken away from the administrative authority.

7.37 Discretionary powers have been vested in the Government or in the officers of the department under various labour laws. The fields in which such discretion is noticeable are:—

- (a) Pre-conciliation level;
- (b) In reference of disputes to adjudication;
- (c) In registration of unions;
- (d) In verification of membership of unions.

7.38 At pre-conciliation level the discretion lies with the conciliation officer, in case of non-public utility services, whether to accept the dispute in conciliation. The use of discretion in such situations can be regulated to a considerable extent by laying down guide-lines for the Conciliation Officers. These have been given in Appendix VI of the Report.

7.39 At the level of the Government, discretion is used in the case of the reference or the non-reference of a dispute to adjudication. The Government has got powers under section 10(1) of the Industrial Disputes Act, 1947 to refer or not to refer a particular dispute to adjudication after consideration of the facts before it. In case the reference is refused, the reasons for the same are communicated to the parties. Reference or non-reference of a dispute has its impact on industrial relations in as much as it creates problems of inter-union rivalries etc. It is said that sometimes this discretion is used in favour of so-

-
1. Report of the Committee on the Functioning of the System of Wage Boards (P.47-48).

called "favoured unions", which means that disputes raised by a union or unions which have a political affinity with the ruling party are referred to adjudication more often than the disputes raised by the other unions. From the side of the Government it is said that a reference is made or refused purely on merits and for sound reasons. Table No XI which gives figures about Uttar Pradesh will show that there has been no discrimination in the reference of disputes and the charge that discretion has been used in favour of "favoured unions" is incorrect. Information regarding other States was not readily available, but we have been informed by all the State Governments in this Region that the charge of discrimination in the matter of reference of disputes to adjudication is not correct.

TABLE XI

STATEMENT SHOWING INDUSTRIAL DISPUTES REFERRED TO ADJUDICATION AS PERCENTAGE OF THE NUMBER OF DISPUTES THAT FAILED AT CONCILIATION—FEDERATION-WISE—IN UTTAR PRADESH.

(1963 to 1967)

Year	Percentage of reference of cases						Total
	Em- ploy- ers	IN- TUC	AI- TUC	HMS	UTC	OTH- ER	
1	2	3	4	5	6	7	8
1963	—	58%	39%	36%	64%	47%	48%
1964	—	39%	32%	33%	29%	38%	33%
1965	—	47%	33%	41%	47%	48%	46%
1966	—	57%	58%	52%	58%	49%	52%
1967	—	59%	67%	39%	70%	55%	55%

7.40 It is also said that discretion is used against the unions in the matter of registration of trade unions by the Registrar. Though the Trade Unions Act does not give any special powers

to the Registrar; discretion can only be used in delaying the registration. If registration is unjustifiably refused, there is a provision in the Act for appeal against the order of the Registrar. It has been pointed out that sometimes issues which are not legitimately connected with registration, like the observance of the Code of Discipline and Industrial Truce Resolution etc., are raised in order to delay the issue of the certificate of registration on the ground of the observance of the Code of Discipline etc.; this means going beyond the provisions of law. The Group feels that there should be no undue delay in the registration of trade unions and if there are administrative instructions in any State to refuse or delay registration on any ulterior grounds, the same should be withdrawn.

7.41 Another sphere where discretion is reported to play an important part is the verification of membership of the unions before deciding whether a dispute may or may not be taken into conciliation. As far as the verification of membership for the purpose of recognition of a union is concerned, such verification is done by the officers of the Industrial Relations Machinery of the Central Government in accordance with the procedure laid down by the 16th Indian Labour Conference.

7.42 It is true that discretion should be used in as objective a manner as possible without any extraneous pressure or consideration being brought in. If full facts are disclosed in the report of the Conciliation Officer, the decision regarding reference or non-reference of a dispute will not be difficult and there are little chances of arbitrariness being displayed in the exercise of the discretion. In cases where the Conciliation Officer's report does not disclose full facts, it may be useful to summon the parties at the level of the Government and hear them before a final decision on the Conciliation Officer's report is taken regarding reference or non-reference.

7.43 To the question "How far use of discretion could be codified, if at all", our answer is that it cannot be done. However, it is true that Government should follow a consistent policy in the exercise of its discretion and 'whenever possible, some guide

lines may be evolved for the exercise of discretion by its officers. These guidelines may be evolved after tripartite deliberations, as was done in evolving model principles of reference of disputes to adjudication at the 17th Session of Indian Labour Conference.¹

-
1. Tripartite Conclusions 1942-67 (Published by Ministry of Labour) pp. 63-64.

ACKNOWLEDGEMENTS

8.1 The Group wishes to place on record their gratitude to the concerned State Governments who extended full co-operation to the Group in making arrangements for the various meetings and in the fulfilment of the task assigned to it. We are also grateful to the Labour Secretaries of various States and other senior officers of the Labour Departments who attended the meetings of the Group as special invitees and made useful contribution to the discussions.

8.2 The Group would particularly like to place on record its appreciation of the enthusiasm, seriousness of purpose and industry with which Shri T.C. Jain, the Member-Secretary, applied himself to the arduous task assigned to him by the Commission for which he had to take great pains and devote considerable time in addition to his normal official work. Shri Jain's experience and knowledge proved quite useful to us in the preparation of the report.

8.3 Our thanks are also due to the staff of the Labour Department of Government of Rajasthan who cheerfully bore, in addition to their normal duties, extra burden of the collection,

compilation and analysis of the data required by the Group and in undertaking the typing, comparison and cyclostyling of the Report.

Sd/-
(DASHRATH SINGH)
Labour Commissioner, U.P.

Sd/-
(N. N. VOHRA)
Labour Commissioner, Punjab

Sd/-
(D. D. SHARMA)
Labour Commissioner, Haryana

Sd/-
(N. K. JOSHI)
Labour Commissioner, Rajasthan

Sd/-
(S. Y. ANDRABI)
Labour Commissioner, J. & K.

Sd/-
(P. K. MATTOO)
*Labour Commissioner,
Himachal Pradesh*

Sd/-
(S. C. VAJPEYI)
*Labour Commissioner,
Delhi Administration*

Sd/-
(T. C. JAIN)
*Joint Labour Commissioner,
Rajasthan, Member-Secretary*

Dated:
28th July, 1968

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

Role of Labour Administration:

1. The task of the Labour Administrator in an industrial democracy is not merely to see the compliance with the legal provisions under the various Acts. It is more to create the necessary atmosphere in which the obligations and responsibilities under laws are understood and accepted and to create the necessary consciousness for the observance of these provisions.

(Para 3.5)

2. The object of the labour administration is to provide a just, efficient and adequate machinery for implementation of the provisions of the labour laws. The machinery for labour administration has necessarily to be geared up to meet new challenges emerging from the growing consciousness. (Para 3.5)

Labour Laws and Their Enforcement :

3. For the sake of uniformity, the Government of India should take an early decision to apply the Central Labour Laws to the State of Jammu and Kashmir. (Para 4.23)

4. The Chief Inspector of Factories should be a technical whole-time functionary. He should remain under the administrative control of the Labour Commissioner, though he may function independently so far as the technical matters are concerned. (Para 4.26)

5. In accordance with the recommendations of the Labour Ministers' Conference held in 1960, for every 150 factories, there should be one Inspector of Factories. (Para 4.27)

6. Each State should increase the strength of the Factories Inspectorate adequately to be commensurate at least with the amount realised from registration fee from the factories.

(Para 4.30)

7. It would not be proper to give powers of Additional Inspector of Factories to the Conciliation Officers. (Para 4.31)

8. There should be a Labour Judicial Service which will not only work as adjudication machinery in industrial disputes, but may also be empowered to do magisterial work in hearing prosecution cases under various labour laws. Till then, each State can appoint special magistrates to hear cases of prosecutions under the labour laws. (Para 4.33)

9. The workers engaged in the pre-production and erection stage in a factory, should also get the benefit of the provisions of the Factories Act. A separate legislation for workers engaged in construction work and scaffoldings, should be considered by the Central Government. (Para 4.34)

10. The work of inspection of boilers should be under the administrative control of the Labour Department in all States. (Para 4.35)

11. Registration of shops and commercial establishments should be provided under the Shops and Commercial Establishments Act and a small registration fee may be charged from their owners. (Para 4.36)

12. The enforcement of the Shops and Commercial Establishments Act should be under the administrative control of the Labour Department in all States. (Para 4.37)

13. For proper enforcement of Shops and Commercial Establishments Act, each State should have adequate machinery. Special magistrates should be appointed to hear and decide cases under the Act preferably on-the-spot. Penalties imposed should be more deterrent. Minimum penalty should be provided for breach of important provisions under the Act. (Para 4.37)

14. Practice of giving exemptions under the Shops and Commercial Establishment Act should be uniform throughout the States in this Region. (Para 4.38)

15. It would be desirable if the Government of India for the sake of uniformity brings a Central Shops and Commercial Establishments Act and the State Governments may be allowed to

have suitable modifications, where considered necessary in its application to each State. (Para 4.39)

16. All towns and cities which are notified as town areas or municipal areas should be covered under the Shops and Commercial Establishments Act. (Para 4.40)

17. The enforcement of the Bidi and Cigar (Conditions of Employment) Act, 1966 should be entrusted to the non-technical Inspectors rather than the Inspectorate of Factories. (Para 4.43)

18. The powers of enforcement of the non-technical provisions of the Mines Act may be delegated to the welfare staff employed in the States. (Para 4.44)

19. Inspectors may be appointed under the Trade Unions Act and invested with powers to check malpractices in the working of trade unions. (Para 4.45)

20. The Trade Unions Act should be amended so as to provide for the settlement of disputes of intra-union rivalry by the Labour Court. (Para 4.46)

21. The law should provide for a common set of standing orders applicable to all types of establishments covered under the Industrial Employment (Standing Orders) Act. If any modification is desired, the parties may approach the Certifying Officer for its approval. (Para 4.47)

22. The Industrial Employment (Standing Orders) Act, 1946 should be amended to provide for the Inspectors to enquire into the complaints regarding non-observance of the certified standing orders. (Para 4.48)

23. Inspectors of Factories, being technical persons and already saddled with heavy work, are not generally able to carry out the inspections under the Payment of Wages Act comprehensively or to enquire into complaints regarding delay in payment or non-payment of wages etc. The field staff of the Labour Department i.e., Labour Inspectors, should be appointed Inspectors under this Act. (Para 4.50)

24. Senior Officers of the Labour Department, not below the status of the Assistant Labour Commissioners, may be appointed as Authority under the Payment of Wages Act and the Minimum Wages Act. (Para 4.51)

25. Senior Officers of the Labour Department should be vested with powers to issue certificates for recovery of wages and the minimum bonus of 4% under the Payment of Wages Act. (Para 4.52)

26. Enforcement of the Minimum Wages Act suffers due to inadequate staff, over-burdening of the existing machinery, lack of transport facilities to them. (Para 4.56)

27. There is need to simplify the forms and registers to be maintained under the Minimum Wages Act. (Para 4.59)

28. Labour Department should remain responsible for the enforcement of the Minimum Wages Act in agricultural employments, but assistance may be taken from the Agriculture, Revenue, Social Welfare and Community Development Departments. (Para 4.60)

29. Since the enforcement of the Act in agriculture in all units will be difficult, a start may be made by enforcement of the Minimum Wages Act in agriculture on the farms of 20 standard acres or more. (Para 4.60)

30. The State Government should have powers to de-notify an employment from the schedule under the Minimum Wages Act. (Para 4.61)

31. For the proper enforcement of the Minimum Wages Act, Minimum Wages should be fixed categorywise separately for skilled, semi-skilled and un-skilled workers and all occupations included in each category should also be clearly defined. (Para 4.62)

32. The Minimum Wages Act should be amended so as to provide for minimum penalty for offences under the Act. (Para 4.63)

33. Inspecting staff under the Act should be given proper training to prepare and conduct cases in the Law Courts or separa-

te Prosecuting Inspectors may be appointed to argue the cases before the courts. (Para 4.63)

34. Senior Officers of the Labour Department, not below the rank of Assistant Labour Commissioners with at least seven years' experience in the Department, may be given powers of Workmen's Compensation Commissioners. (Para 4.64)

35. Labour Inspectors or other Officers may be specified by the Government to appear before the Workmen's Compensation Commissioner on behalf of the claimant. (Para 4.65)

36. Inspectors appointed under the Payment of Bonus Act should be given proper training particularly in respect of the examination of the balance-sheets, profit and loss accounts for purpose of calculation of available surplus according to the Act. (Para 4.66)

37. Powers can be delegated to the Labour Commissioner or other Senior Officers of the Department to extend the prescribed period of eight months for payment of bonus. (Para 4.68)

38. Labour legislation being mostly social in character, it should develop its sanctions through the process of social education. Persuasive methods may sometime yield better results than a repressive policy of prosecution and harassment. (Para 4.71)

39. Information obtained regarding withdrawal of prosecution cases reveals very few such cases and cannot be regarded as example of vacillating policy of the Government in case of prosecutions. (Para 4.72)

40. Industrial disputes pertaining to mines should be brought under the purview of the State Government. Disputes regarding banks (Except those working under the State Bank of India or the Reserve Bank of India) should also be brought under the purview of the State Government. (Para 4.73)

41. The industrial disputes pertaining to the industries under the management of the Central Government or Corporation set up by the Central Government, even if its units are

more than one State, should be under the State sphere, where the unit is situated. (Para 4.74)

Pattern of Labour Administration :

42. The post of Labour Commissioner is usually filled by an I.A.S. Officer. However, wherever a qualified, suitable and experienced departmental officer is available, he should be equally considered for appointment as Labour Commissioner. The tenure of the office of the Labour Commissioner from I.A.S. should not be less than three years and may go upto five years. (Para 5.4)

43. Wherever law permits delegation of powers, such delegation may be made by the State Government in favour of Labour Commissioner and other senior officers of the Labour Department. Such officers may also be invested with appropriate secretarial status to enable them to function expeditiously and effectively. (Para 5.8)

44. The role of the Labour Department is not fully appreciated by other Government Departments and they do not take kindly to the observations of the Labour Department regarding their deviation from the provisions of labour laws. (Para 5.9)

45. Even if the Labour Commissioner is to be an I.A.S. Officer, other posts in the Labour Department should normally be filled in by officers of the Department itself. (Para 5.20)

46. The pay-scales of the various categories of posts in the Labour Departments in the Region indicate a wide disparity from State to State. The pay-scales are not at all commensurate with the responsibilities entrusted to the officers. (Para 5.21)

47. The Labour Inspector, Wages Inspector/Minimum Wages Inspector etc., should be designated as the "Labour Enforcement Officer". (Para 5.23)

48. There is no need to change the nomenclature of the Labour Department. (Para 5.23)

49. Statistics and Research Section should form an integral part of the Labour Department and the staff employed in this Section should enjoy the same status as the enforcement staff and should also be eligible for promotion to higher posts in the Department. (Para 5.24)

50. Labour Journal should be published by the Labour Department in each State to afford adequate publicity to its work and also for disseminating useful information. (Para 5.25)

51. The Central Government should share 60% of the expenditure on the staff appointed to administer the labour laws enacted by the Central Government. (Para 5.26)

52. An All-India Labour Service of Specialized Officers, who are fully equipped to deal with the various facets of labour administration, should be created on the lines of other All-India Services. (Para 5.27)

53. Administration of Labour Welfare should also be given proper attention. The officers recruited in the department may preferably be asked to work on the welfare side for at least 2 to 3 years. (Para 5.29)

54. Conditions of migratory labour and the steps which may be taken to improve their lot should be examined in more details jointly by officers of the States, where such problem exists. (Para 5.31)

55. Frequent meetings and exchange of views between the officers of the various States will undoubtedly help in toning up the standard of administration and proper enforcement of laws. Such exchange of views should be held regularly between the officers of the Labour Departments of the various States, both at the regional level and also at all-India level. (Para 5.32)

56. Common training programmes and regional seminars can be useful in improving the quality of officers and improvement in their knowledge. (Para 5.32)

Conciliation Machinery

57. The Conciliation Officer plays an important role in industrial relations. (Para 6.1)

58. A Conciliation Officer must possess personal qualities of tact, impartiality and a genuine desire to induce the parties to settle their difficulties. (Para 6.3)

59. Knowledge of the Conciliation Officer may be improved through training and by providing him educational opportunities for improving his skill in human relations and other fields of interest. He should be attached with senior Conciliation Officer to gain first-hand knowledge in the art of conciliation. (Para 6.5)

60. The Conciliation Officer should not normally be burdened with other administrative and enforcement work of the Department. (Para 6.5)

61. The status of the Conciliation Officer should be improved and his pay-scale should not be less than Rs. 300-900. (Para 6.6)

62. The powers of the Conciliation Officer should not generally be given to the Officers below the rank of the Assistant Labour Commissioners. सत्यमेव जयते (Para 6.7)

63. Since a Conciliation Officer acts as a mediator, his being invested with powers of a Civil Court to summon the parties in conciliation proceedings would jeopardize his role as a Conciliator. (Para 6.7)

64. Conciliation Officer should not generally act as an arbitrator in cases where he has acted as a Conciliator.

65. An analysis of the time taken by the Conciliation Officers in their efforts reveal that time taken by the Conciliation Officer is generally less than one month. The time taken by the Conciliation Officer should not generally be more than a month. (Para 6.10)

66. The reasons for delay in conciliation are the inadequacy of the staff, excessive jurisdiction of the conciliation officer and other administrative responsibilities which they have to look after, besides their basic charge. (Para 6.11)

67. A well-defined procedure should be followed in admitting a dispute in conciliation and in submission of reports indicating failure or success of conciliation efforts. Guide-lines to be followed by the conciliation officers should be issued by the State Governments. Model guide-lines have been incorporated in Appendix VI of this Report. (Para 6.17)

Problems Of Public Sector Undertakings :

68. The declared policy of the Government that the public sector should function as an enlightened and progressive employer serving as a model for the private sector should be translated into actual practice. (Para 7.4)

69. Review of industrial relations in each public sector undertaking should be conducted by the State Labour Commissioners at least once in three years. (Para 7.6)

70. The basic factor on which healthy labour management relations rest is the prompt and effective discharge of their statutory obligations by the employers in the public sector. (Para 7.6)

71. Employers in the public sector should also be liable to prosecution in the same manner as private sector employers and Government should not hesitate in giving permission to prosecute such officers, who do not care to satisfy the various provisions of labour laws. (Para 7.7)

72. The managements must take care in detecting causes of disaffection and be prompt in initiating speedy measures to remove the same. The management of the public sector should discharge their obligations with exceptional care and should adopt an enlightened policy in labour matters. (Para 7.8)

73. It is necessary to vest the officers of the public sector undertakings on the spot with adequate authority so that they may take quick decisions in eliminating delays in settlement of workers' grievances. (Para 7.9)

74. The Government should follow uniformly in the case of public sector undertakings the principles laid down for reference of disputes to adjudication adopted at the 17th Session of the Indian Labour Conference. (Para 7.10)

75. The public sector undertakings should take steps to strengthen their Personnel Departments and to have a Personnel Manager/Officer, who is trained and professionally qualified and equipped with sufficient experience in labour-management relations. (Para 7.12)

76. The public sector enterprises should take help of the conciliation officers and the machinery provided by the Labour Department in the settlement of disputes. (Para 7.12)

77. The public sector undertakings should constitute a Grievance Machinery in consultation with the workers' representatives and full use should be made of such machinery. (Para 7.12)

78. The public sector undertakings should take increased recourse to mediation and voluntary arbitration for the settlement of disputes. (Para 7.12)

79. Public sector undertakings should provide effective machinery for joint consultation. A Permanent Negotiating Machinery consisting of the representatives of the employers and workers nominated by the recognized union may be provided for this purpose. (Para 7.12)

80. The importance of communication in relation to the size of the enterprise should be properly realized. There is also need to instil in the workers a sense of partnership and pride in public sector enterprise and a sense of responsibility for its efficiency and well-being. (Para 7.12)

81. The management of the public sector enterprises should show a lively interest in the welfare of the employees and take interest in developing their qualification and skill to improve their prospects and standards of living. (Para 7.12)

Problems of Small Industrial Sector :

82. Deliberate attempts by the employers to deny to the

workers the benefits under the law by sub-dividing their enterprise should be checked. It is also necessary to plug the loopholes in the laws to check such evasions. (Para 7.14)

83. It is necessary to educate both the employers and the workers of small units about their rights and obligations. (Para 7.14)

84. As far as possible, one Inspector may be given powers of inspection under various laws, so that a small entrepreneur has not to satisfy a number of diverse authorities. (Para 7.14)

85. There should be a separate legislation for the small and unorganised sector, which might cover important provisions of the Minimum Wages Act and include salient provisions covering health, safety and welfare of workers. (Para 7.15)

86. The implementation of the labour laws in small undertakings can be improved only if adequate inspectorate staff equipped with transport facilities is provided. (Para 7.15)

Problems of Implementation :

87. The suggestion that the trade unions should function as supervisors for the implementation of the labour laws, is not acceptable. (Para 7.18)

88. The workers' organisations should not be given powers to directly approach the courts for redress of their grievances. The present procedure of sanctioning and filing of prosecutions by or under the authority of the Government should continue. (Para 7.19)

89. It might be desirable to lay down a procedure whereby inspecting officer should obtain sanction from his higher officer to file a prosecution. (Para 7.19)

90. Government may accord sanction on the merits of each case to the employer, union or the worker to file prosecutions under the labour laws. (Para 7.20)

91. The workman or the union should not have power to approach the Tribunal or the Labour Court directly for adjudication of a dispute. (Para 7.21)

92. For looking after the implementation of awards, settlements or agreements, suitable statutory machinery should be provided under the Industrial Disputes Act. (Para 7.23)

93. Labour Courts may be given powers to recover the amount due under the Industrial Disputes Act, to issue recovery certificates in the manner provided for recovery of fines imposed under the Code of Criminal Procedure, as if it were a Criminal Court. (Para 7.24)

94. There should be a provision under the Industrial Disputes Act on the lines of Section 17A of the Payment of Wages Act for attachment of the property of the employer against whom recovery proceedings have been filed. (Para 7.24)

95. Statutory provisions should be made in the various laws to enforce the provisions of the Code of Discipline. To accept the voluntary approach in an atmosphere of mutual distrust will not be fruitful. (Para 7.28)

Miscellaneous Matters :

96. Tripartite deliberations can and do play an important part in shaping labour policies. If the State Governments feel that important decisions and recommendations of the tripartite bodies are not implemented, they may consider enforcing such measures by legislation. (Para 7.32)

97. Provision should be made in the relevant Central and State laws to make Wage Board recommendations accepted by Government statutorily enforceable in all the States. (Para 7.35)

98. The use of discretion in administration is almost inherent. In case of implementation of labour laws and labour management relations, where human element is more pronounced, discretion cannot be taken away from the administrative authority. (Para 7.36)

99. The charge that discretion is used in favour of so-called "favoured unions" in matters of reference of disputes to adjudication is not substantiated. (Para 7.39)

100. There should be no delay in registration of trade unions or refusal to register a union on any ulterior grounds. (Para 7.40)

101. Discretion should be used in as objective a manner as possible without any extraneous pressure or consideration being brought in. (Para 7.42)

102. It is not possible to codify the use of discretion, but whenever possible, some guidelines may be evolved for exercise of discretion by the officers in following a consistent policy. (Para 7.43)



APPENDIX I

POINTS ON WHICH INFORMATION MAY BE COLLECTED FROM VARIOUS STATES IN THE NORTHERN REGION

1. Labour Legislation (State Acts).

- (i) Legislation about employment and training.**
- (ii) Legislation on working conditions.**
- (iii) Legislation on labour-management relations.**
- (iv) Legislation on wages, earnings and social security.**
- (v) Legislation on welfare.**
- (vi) Miscellaneous legislation.**

Two copies each of the State Acts with up-to-date amendments and Rules made thereunder may be supplied. Two copies of the Rules framed by the State Governments under important Central Acts e.g. Industrial Disputes Act, Minimum Wages Act, Trade Unions Act may also be supplied.

- 2. (i) Pattern of labour administration in the State preferably in the form of a chart and duties/responsibilities of various officers, the number of such officers, their pay-scales and their status in the State Administration, etc.**
- (ii) Relationship with the Secretariat—Whether Labour Commissioner or any other officer exercises any ex-officio powers.**
- 3. Information about the changes which have taken place in the incumbents to the post of the Labour Secretary and Labour Commissioner in the State in the last 10 years.**
- 4. A comparative statement of the structure of Labour administration in 1950 and 1967.**

5. Authorities appointed under various Acts e.g. Conciliation Officers, Workmen's Compensation Commissioners, Registrar of Trade Unions, Certifying Officer, Authority under the Payment of Wages Act, Authority under Minimum Wages Act, etc.
6. (i) Pattern of Factories Inspectorate in the State—Whether the Factories Inspectorate is under the Labour Commissioner or a separate Head of Department.
(ii) Whether Boilers Inspectorate is also under the Labour Department ?
7. *Extent of compliance of Labour Laws in each State—*
 - (i) Number of inspections, number of prosecutions sanctioned, prosecutions successful and nature of penalties imposed under various Acts.
 - (ii) Number of cases in which prosecutions sanctioned have been later withdrawn by the State Govt. together with reasons. (Information may be given Act-wise)
(Figures for last 5 years may be given).
8. *Information regarding the working of the Conciliation Machinery.*
 - (i) Number of cases handled by the Conciliation Officers, number of cases in which conciliation was successful, number of cases in which report of failure of conciliation was sent.
 - (ii) Analysis of the time taken by the Conciliation Officers in the disputes and also time taken at the Government level in making a reference.
 - (iii) Analysis of time taken by the Court in disposing off references.
9. Analysis of industrial disputes referred to adjudication—as percentage of the number of disputes that failed at conciliation, Federation-wise (INTUC, AITUC, HMS etc.).
10. (i) Information regarding working of Implementation and Evaluation machinery in the State.
(ii) Work of Tripartite machinery in the State.

11. Information regarding working of minimum wages machinery in the State.
12. Information regarding working of Research, information and Statistics Sections.
13. Delegation of powers by the State Government to Labour Commissioner or other officers under Section 39 of the Industrial Disputes Act or other labour laws.
14. Implementation of Wage Boards' recommendations.
15. Information regarding revenue and expenditure in the enforcement of Factories Act, Motor Transport Workers Act and Shops and Commercial Establishments Act.



APPENDIX II

EMPLOYMENTS ADDED TO THE SCHEDULE UNDER THE MINIMUM WAGES ACT

Following employments were added to the Schedule under the Minimum Wages Act 1948, by the various States :—

1. UTTAR PRADESH

1. Employment in Hotels and Restaurants.
2. Employment in Private Printing Presses.
3. Employment in Metal Industry.
4. Employment in Foundry.
5. Employment in Glass Bangle making establishments.
6. Employment in Leather Goods Manufactory.

2. DELHI

1. Any foundry with or without attached machine shops.
2. Automobile Engineering including servicing and repair work.
3. Printing Presses.
4. Any Metal-working Establishments other than foundries and Automobiles Engineering Workshops.
5. Brick Kiln Industry.
6. Pottery Industry.
7. Employments in Shops and other Establishments covered by Delhi Shops & Establishments Act, 1954.

8. Textile, including Hosiery.
9. Chemical.

3. PUNJAB AND HARYANA

1. **Shops & Chemical Establishments with the following categories**
 - (i) Grocers and Karyana Merchants.
 - (ii) General Merchants.
 - (iii) Cloth Merchants.
 - (iv) Commission Agents, Bankers/or Grain Dealers.
 - (v) Furniture Dealers or Manufacturers.
 - (vi) Hotels, Restaurants or Tea Stalls.
 - (vii) Halwais.
2. Potteries, Ceramics and Refractory Industry.
3. Chemical and Distillery Industry.
4. Glass Industry.
5. Rubber Industry.
6. Cotton Ginning and Pressing Factories.
7. Saw Mills and Timber Trade.
8. Metal Rolling and Re-rolling Industry.
 - (i) Non-Ferrous Metal Rolling and Re-rolling Industry.
 - (ii) Brass, Copper and Aluminium Utensils making Industry.
9. Private Presses.
10. Foundries with or without attached machine-shop.
11. Scientific Industry.
12. Electroplating by using salts or chromium, nickel or any compound and the connected Buffing and Polishing Industry.

4. RAJASTHAN

1. Wool Cleaning and Pressing.
2. Printing Presses.
3. Cotton Ginning & Pressing Industry.
4. Shop Stone Factor es.



APPENDIX

Comparative Statement of Administrative Set-up

S. No.	Name of the Post	DELHI		HARYANA		HIMACHAL PRADESH	
		No. of Posts	Scale of Pay	No. of Posts	Scale of Pay	No. of Posts	Scale of Pay
1	2	3	4	5	6	7	8
1	Lab. Comm.	1	Sr. I.A.S. Grade	1	I.A.S. Grade	1	I. A. S. Grade
2	Joint Lab. Comm.	—	—	—	—	—	—
3	Dy. Lab. Comm.	1	P.C.S. grade (Class I)	2	300—508	—	—
4	Asst. Lab. Comm. and Personnel Offi- cers	5	500—900	—	—	—	—

III

of Labour Departments in Various States.

PUNJAB		RAJASTHAN		UTTAR PRADESH		JAMMU & KASHMIR	
No. of Posts	Scale of Pay	No. of Posts	Scale of Pay	No. of Posts	Scale of Pay	No. of Posts	Scale of Pay
9	10	11	12	13	14	15	16
1	I.A.S. Grade	1	900—50—1800 with a start of 1360/- (From Lab. Service) Ex-Officio Dy. Secy.	1	Sr. I.A.S. Grade	1	500—1100 (Kashmir Adm. Service Sr. Scales)
1	650—1200	1	900—50—1500 (with start of 1050)	2	Sr. I.A.S. Gr. (1), or P.C.S. Departmental Officer 750—1400 (1)	—	—
1	300—850	2	550—1100 (Min. Start of Rs. 640)	4	600—1250	3	250—600
1	250—750	10	285—800 (Min. Start Rs. 335)	10	400—1000	1	225—500

1	2	3	4	5	6	7	8
5	Labour Officer	4	350—900	5	250—750	1	250—750
6	Lab. Ins/Bonus Inspector	4	210—380 130—300	11	200—450	5	210—450
7	Conciliation Officers.	—	—	—	—	—	—
8	Lab. Intelligence Officer.	—	—	—	—	—	—
9	Asstt. Labour Officer.	1	230—530	—	—	—	—
10	Labour Assistant	—	—	—	—	—	—
11	Chief Insp. of Factories.	—	—	—	—	—	—
12	Sr. Insp. of Facs. and Boilers.	—	—	—	—	—	—
13	Insp. of Fac. (and Boilers)	3	250—575	7	250—750	1	200—500
14	Dy. Chief Insp. of Factories.	—	—	1	375—925	—	—
15	Medical Insp. of Fac.	—	—	1	250—750	—	—
16	Chief Insp. Boilers.	—	—	—	—	—	—

9	10	11	12	13	14	15	16
8	250—750	—	—	3	300—900 (each one in charge of I.R., Wel. and Statistics)	—	—
10	200—450	45	170—400	149	200—400	12	145—275
—	—	—	—	20	300—900	—	—
—	—	—	—	1	300—900	—	—
—	—	—	—	—	—	—	—
—	—	—	—	6	120—250	—	—
—	—	1	1300—1600 (Also (Chief Insp. Boilers)	1	750—1400	—	—
—	—	1	550—1100	—	—	—	—
6	250—750 (Gazetted) 200—500 (Non-Ga- zettered)	7	285—800	19	300—900	2	225—500
1	375—925	—	—	2	400—1000	—	—
1	250—750	—	—	2	600—1250	—	—
—	—	—	—	1	750—1400	—	—

1	2	3	4	5	6	7	8
17	Insp. of Boilers	—	—	—	—	—	—
18	Chief Insp. of Facs. & Boilers and Elec. Inspec- tor.	1	700—1150	—	—	—	—
19	Asstt. Elec. Ins- pector.	1	350—900	—	—	—	—
20	Insp. Facs. and Boilers & Asstt. Elec. Inspector.	1	250—575	—	—	—	—
21	Insp. of Factories (Medical)	1	375—830	—	—	—	—
22	Shops Inspectors	9	130—300	9	80—150	2	150—300 80—150
23	Dy. Chief Insp. Shops.	—	—	—	—	—	—
24	Commercial Insp.	2	210—320	—	—	—	—
25	Lab. Officer-cum- Chief Insp. Shops.	1	350—900	—	—	—	—
26	Chief Insp. Shops	1	230—530	—	—	—	—
27	Sr. Investigator	—	—	—	—	—	—
28	Investigators	—	—	—	150—350	—	—
29	Chief Investigators	—	—	—	—	—	—
30	Statistical Officer	—	—	1	250—750	—	—
31	Statistician	—	—	—	—	—	—
32	Jr. Statistical Asst.	—	—	—	110—250	—	—
33	Chief Statistical Assistant.	—	—	—	—	—	—

9	10	11	12	13	14	15	16
—	—	—	—	6	300—900	—	—
—	—	—	—	—	—	—	—
—	—	—	—	—	—	—	—
—	—	—	—	—	—	—	—
—	—	—	—	—	—	—	—
19	80—150	—	—	—	—	—	—
—	—	—	—	1	300—900	—	—
—	—	—	—	—	—	—	—
—	—	—	—	—	—	—	—
—	—	—	—	—	—	—	—
—	—	—	—	—	—	—	—
—	—	—	—	—	—	—	—
—	—	—	—	1	200—400	—	—
—	—	2	170—400	—	—	—	—
—	—	—	—	6	200—400	—	—
1	250—750	—	—	—	—	—	—
—	—	—	—	1	225—500	—	—
—	—	—	—	—	—	—	—
—	—	—	—	1	200—400	—	—

1	2	3	4	5	6	7	8
34	Sr. Research Officer.	—	—	—	—	—	—
35	Statistical Supdt.	—	—	—	—	—	—
36	Publication Officer.	—	—	—	—	—	—
37	Statistical Insp.	1	210—320	—	—	—	—
38	Statistical Asstt.	1	210—320	—	—	—	—
39	Sr. Statistical Asstt.	—	—	—	—	—	—
40	Computers	1	130—300	—	—	—	—
41	Compilation Asstt.	—	—	—	—	—	—
42	Research Assistant.	1	210—425	—	—	—	—
43	Sr. Research Asst.	—	—	—	—	—	—
44	Press Inspector	1	210—320	—	—	—	—
45	Wage Inspector	—	—	—	—	—	120—400
46	Min. Wages Insp.	4	210—320	—	—	—	—
47	Standing Order Officer.	—	—	—	—	—	—
48	Dy. Registrar Trade Union.	—	—	—	—	—	—
49	Trade Union Insp.	—	—	—	—	—	—
50	Asstt. Trade Union Insp.	—	—	—	—	—	—
51	Asstt. Reg. of Trade Union.	—	—	—	—	—	—

9	10	11	12	13	14	15	16
—	—	—	—	1	300—900	—	—
—	—	—	—	1	120—250	—	—
—	—	—	—	1	250—550	—	—
—	—		130—320	—	—	—	—
—	—	—	—	—	—	—	—
—	—	—	—	5	120—250	—	—
—	—	4	120—300	—	—	—	—
—	—	—	—	4	120—220	—	—
—	—	—	—	4	200—400	—	—
—	—	—	—	1	140—280	—	—
—	—	—	—	2	200—400	—	—
—	—	—	—	—	—	—	—
9	120—400	—	—	—	—	—	—
—	—	—	—	—	—	—	—
—	—	—	—	1	300—900	—	—
—	—	—	—	1	300—900	—	—
—	—	—	—	2	300—900	2	145—275
—	—	—	—	10	200—400	—	—
—	—	—	—	2	225—500	—	—

1	2	3	4	5	6	7	8
52	Lab. Wel. Officer	1	250—300	—	—	—	—
53	Welfare Inspector	—	—	—	—	—	—
54	Asstt. Jr. Wel. Officer.	—	—	—	—	—	—
55	Medical Superintendent.	—	—	—	—	—	—
56	Lab. Wel. Supervisor.	10	130—300	—	—	—	—
57	Welfare Supdt.	—	—	—	—	—	—
58	Estate Manager	1	250—380	—	—	—	—
59	Asstt. Wel. Supdt.	—	—	—	—	—	—
60	Housing Supervisor.	1	130—300	—	—	—	—
61	Asstt. Housing Insp.	—	—	—	—	—	—
62	Rent Collector	5	110—180	—	—	—	—
63	Housing Insp.	—	—	—	—	—	—
64	Engineer Elec. & Mec.	—	—	—	—	—	—
65	Sr. Accounts Officer.	—	—	—	—	—	—
66	Executive Engineer.	—	—	—	—	—	—
67	Cost Accounts Officer.	—	—	—	—	—	—

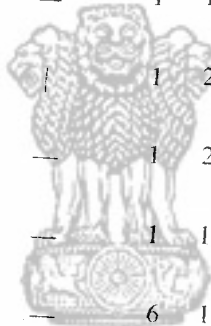
9	10	11	12	13	14	15	16
—	—	1	225—600	—	—	Gaz. 4	225—500
						N. Gaz. 6	215—450
—	—		—	9	200—400	—	—
—	—	—	—	7	225—500	Non3 Gaz.	100—220
—	—	—	—	1	250—700	—	—
—	—	—	—	—	—	5	100—220
—	—	—	—	63	160—280	6	75—150
—	—	—	—	—	—	—	—
—	—	—	—	6	120—250	—	—
—	—	—	—	—	—	—	—
—	—	—	—	18	120—250	—	—
—	—	—	—	—	—	—	—
—	—	—	—	38	160—280	—	—
—	—	—	—	1	1000—1500	—	—
—	—	—	—	1	600—1250	—	—
—	—	—	—	1	600—1200	—	—
—	—	—	—	1	300—900	—	—

1	2	3	4	5	6	7	8
68	Asstt. Engineer	—	—	—	—	—	—
69	Textile Operation Experts and Time and Motion Study Officer	—	—	—	—	—	—
70	Accounts Officer	—	—	—	—	—	—
71	Asstt. Accounts Officer.	—	—	—	—	—	—
72	Elec. Overseer	2	180—380	—	—	—	—
73	Inspecting Officers	2	350—575	—	—	—	—
74	Certifying Surgeon	—	—	—	—	—	—
75	Medical Supdt.	—	—	—	—	—	—
76	Medical Officer (Allopathic)	—	—	—	—	—	—
77	Doctors (Homceo)	—	—	—	—	—	—
78	Vaidya, Hakims	—	—	—	—	—	—
79	Health Visitor	—	—	—	—	—	—
80	Field Publicity Officer	—	—	—	—	—	—
81	Pathologist	—	—	—	—	—	—
82	Field Publicity Assistant.	—	—	—	—	—	—
83	Asstt. Time and Motion Study Cf-ficer	—	—	—	—	—	—
84	Senior Journalist	—	—	—	—	—	—

9	10	11	12	13	14	15	16
—	—	—	—	2	300—900	—	—
—	—	—	—	3	300—900	—	—
—	—	—	—	1	300—900	—	—
—	—	1	175—485	4	250—750	—	—
—	—	—	—	2	175—300	—	—
—	—	—	—	—	—	—	—
—	—	—	—	—	—	1	300—750
—	—	—	—	1	300—900	—	—
—	—	—	—	28	300—900 (M.B.B.)	—	—
—	—	—	—	—	120—200 (LMP)	—	—
—	—	—	—	18	175—300	—	—
—	—	—	—	21	175—300	—	—
—	—	—	—	7	120—250	—	—
—	—	—	—	1	250—550	—	—
—	—	—	—	2	300—900	—	—
—	—	—	—	1	200—450	—	—
—	—	—	—	1	200—400	—	—
—	—	—	—	1	200—450	—	—

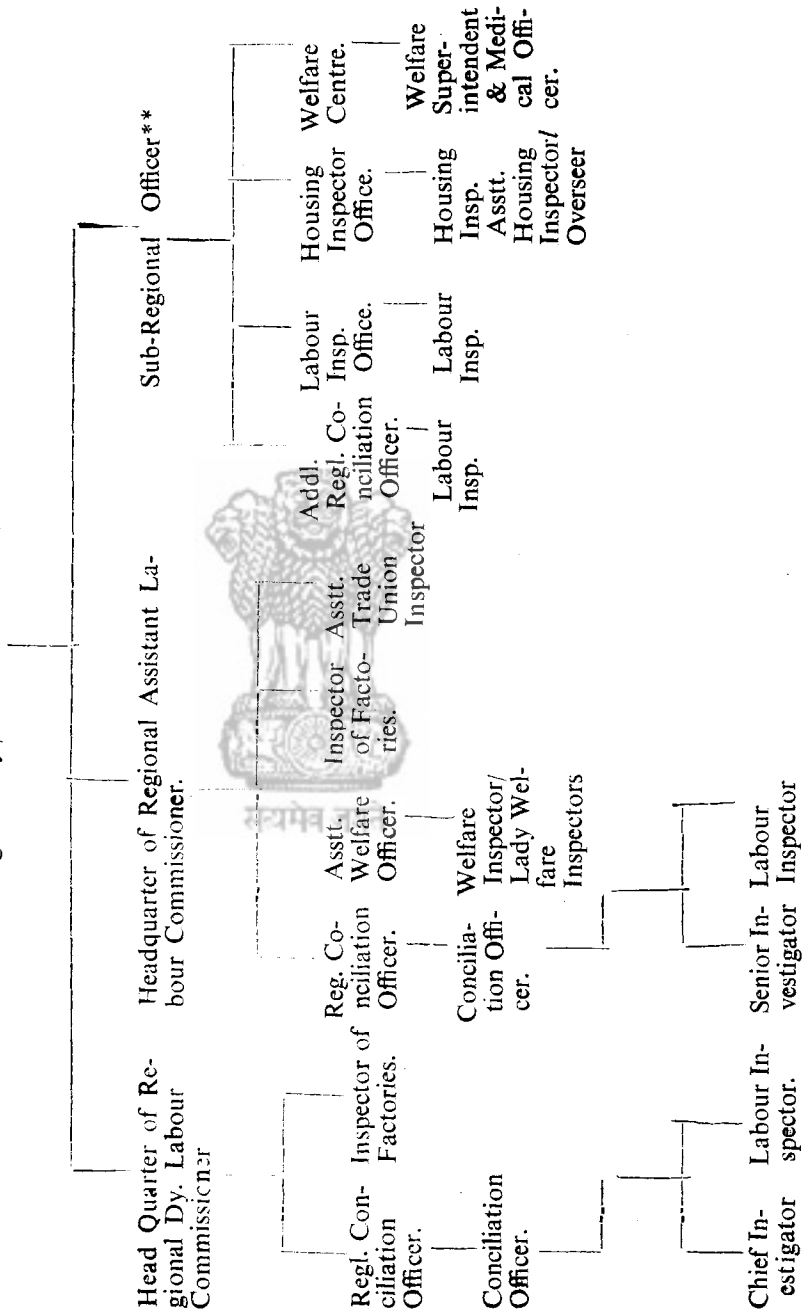
1	2	3	4	5	6	7	8
85	Journalist	—	—	—	—	—	—
86	Research Assistant	—	—	—	—	—	—
87	Photographer-cum-Field Publicity Asstt.	—	—	—	—	—	—
88	Overseer (Civil)	—	—	—	—	—	—
89	Labour Inspector	—	—	—	—	—	—
90	Junior Time Study Hand	—	—	—	—	—	—
91	Medical Supdt. (Homoeo)	—	—	—	—	—	—
92	Job Analyst and Accountant	—	—	—	—	—	—
93	Sr. Time Study Hand	—	—	—	—	—	—
94	Senior Investigator	—	—	—	—	—	—
95	Personal Asstt. to Labour Commissioner	—	—	—	—	—	—
96	Chief Inspector of Accounts	—	—	—	—	—	—

9	10	11	12	13	14	15	16
—	—	—	—	1	150—350	—	—
—	—	—	—	1	140—280	—	—
—	—	—	—	1	120—220	—	—
—	—	—	—	12	175—300	—	—
—	—	—	—	10	120—250	—	—
—	—	—	—	1	120—250	—	—
—	—	—	—	1	200—450	—	—
—	—	—	—	1	200—400	—	—
—	—	—	—	1	120—250	—	—
—	—	—	—	6	120—250	—	—
—	—	—	—	1	400—550	—	—
—	—	—	—	5	200—400	—	—



सत्यमेव जयते

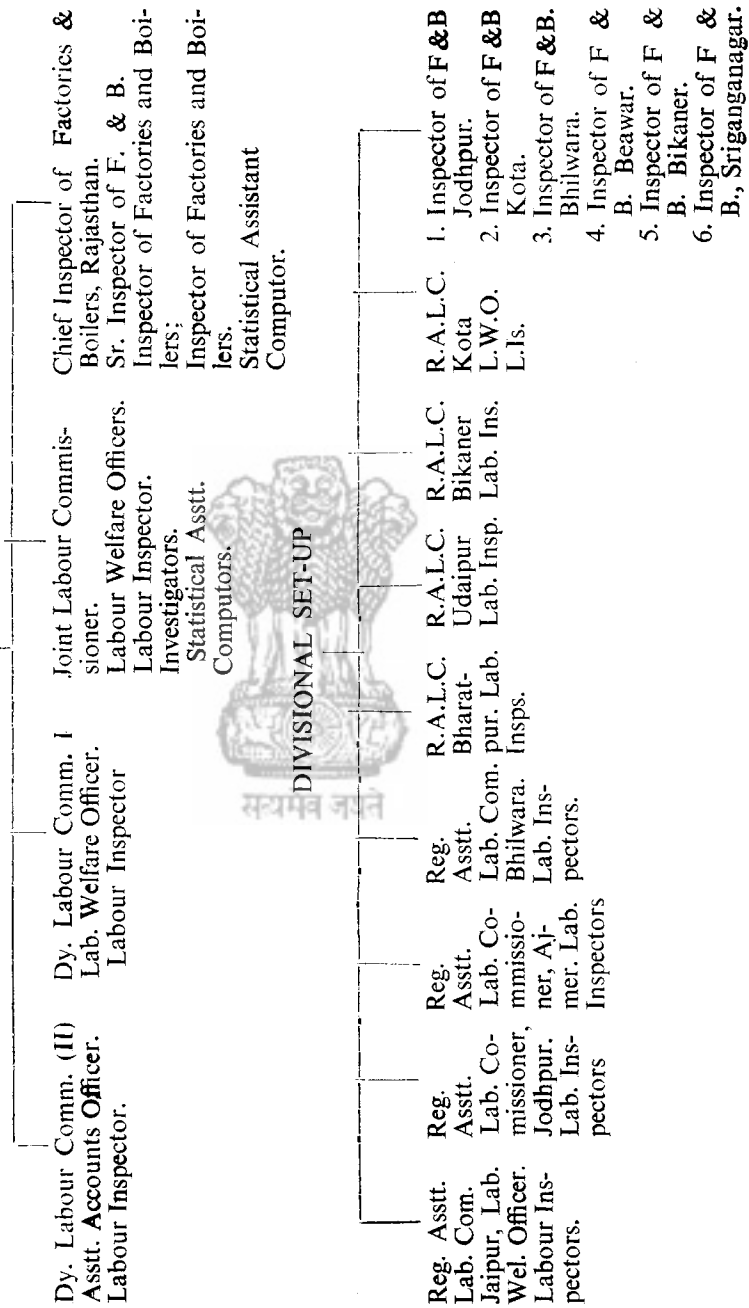
**ORGANISATIONAL CHART OF THE OFFICE OF REGIONAL DEPUTY/ASSISTANT
LABOUR COMMISSIONER IN U. P.**
Regional Dy./Asstt. Labour Commissioner



APPENDIX IV-B

Administrative set-up of the Labour Commissioner, Rajasthan Organisation

LABOUR COMMISSIONER

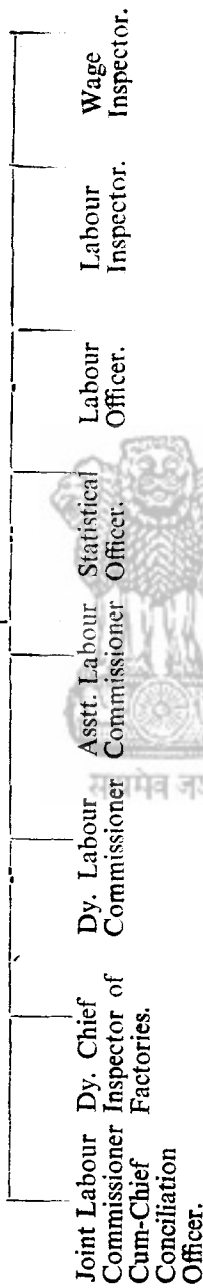


APPENDIX IV-C

Present Pattern of Labour Administration, Punjab.

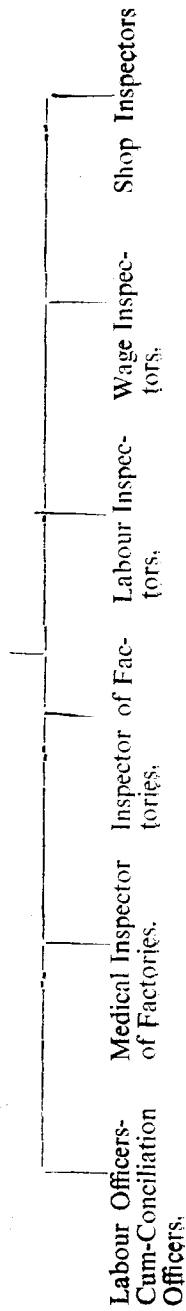
A—Headquarters

LABOUR COMMISSIONER AND CHIEF INSPECTOR OF FACTORIES, PUNJAB



B—Field Staff

LABOUR COMMISSIONER AND CHIEF INSPECTOR OF FACTORIES, PUNJAB

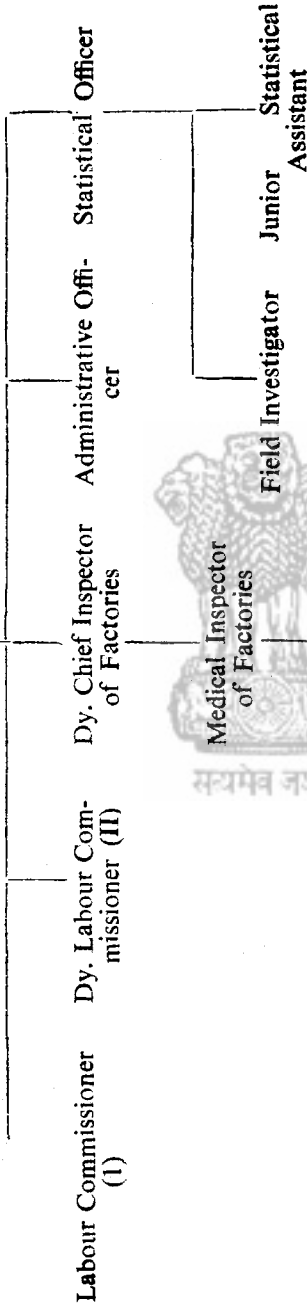


APPENDIX IV-D

Pattern of Labour Administration in Haryana

A—HEADQUARTERS STAFF

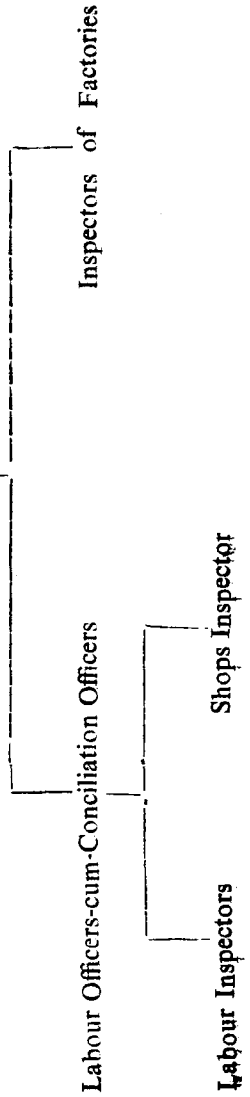
Labour Commissioner-cum-Chief Inspector of Factories



सत्यमेव जयते

B—FIELD STAFF

Labour Commissioner-cum-Chief Inspector of Factories



APPENDIX IV-E

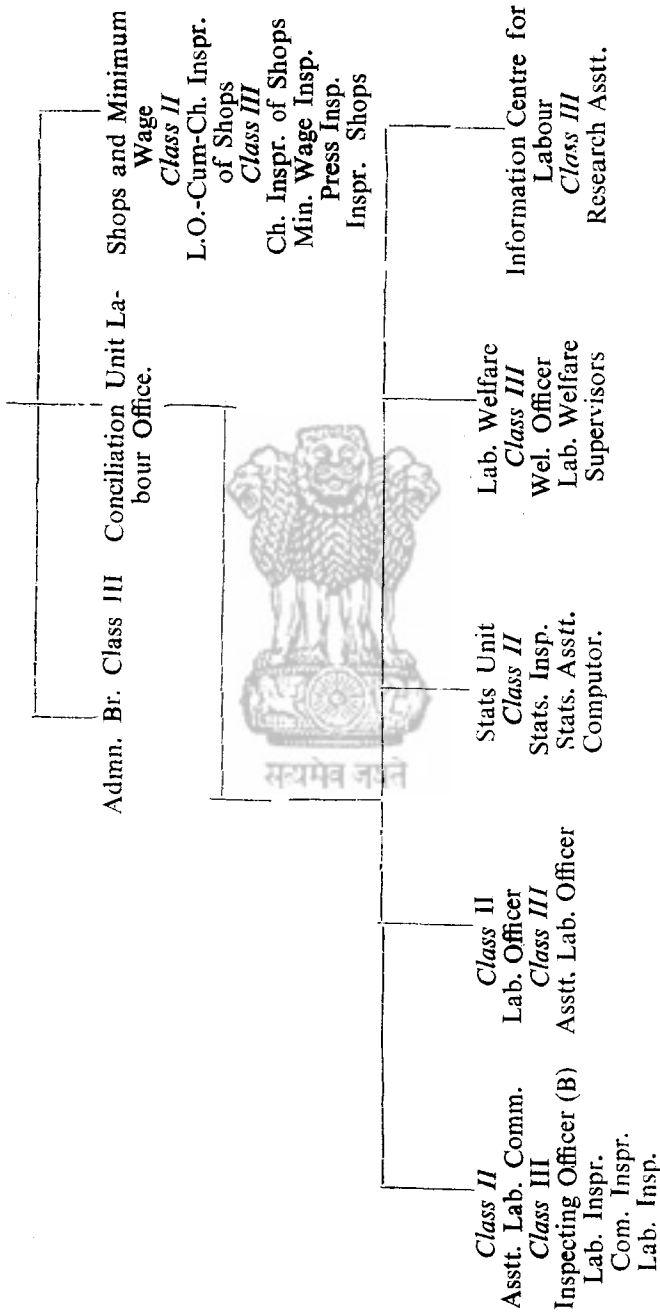
ORGANISATION CHART

Labour Commissioner, Delhi Administration, Delhi

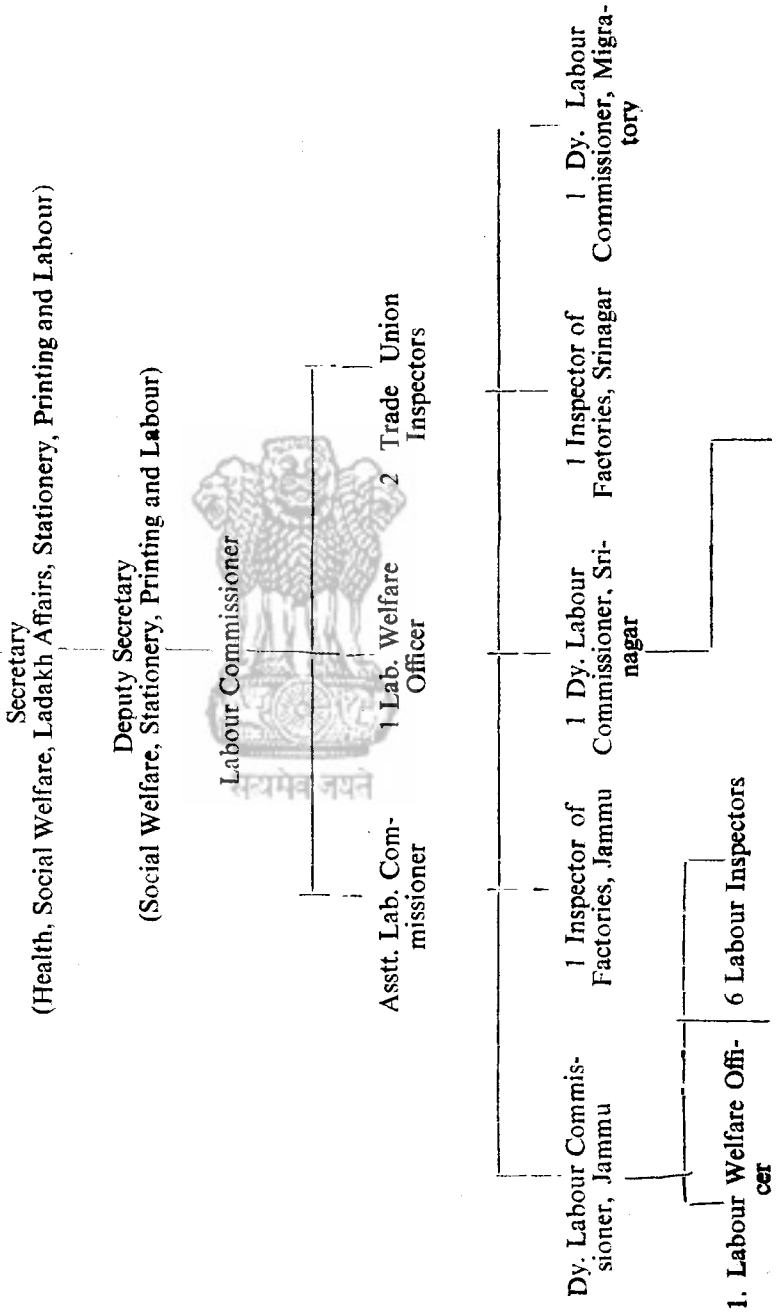
LABOUR COMMISSIONER (CLASS I)

(Senior I.A.S. Grade)

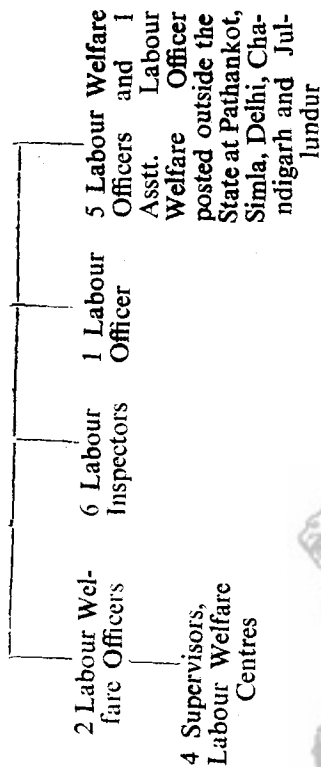




APPENDIX IV-F
Organisational Chart. Labour Department, Jammu & Kashmir
Industries, Power and Labour Minister



2 Supervisors, Labour Welfare Centres



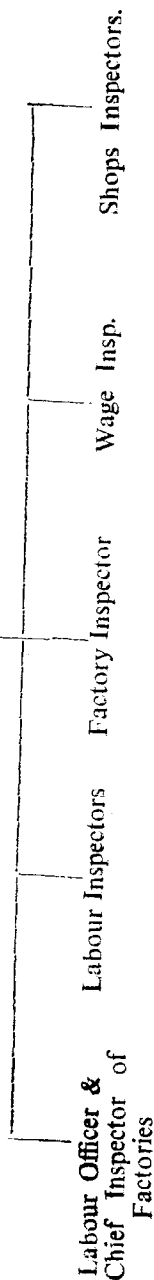
141



APPENDIX IV-G

Present Pattern of Labour Administration in Himachal Pradesh

Labour Commissioner (Director of Industries & Ex-Officio Labour Comm.)



APPENDIX

Statement showing powers delegated to Officers

S. No.	Name of the Act	Authority under the Act	Administration of Labour Laws—	
			Designation of the Officers	
			DELHI	HARYANA
1	2	3	4	5
1. Factories Act, 1948	Inspectors		1. Labour Commissioner. 2. Dy. Lab. Commissioner. 3. Chief Insp. of Factories & Boilers & Elec. Inspector. 4. All Asstt. Lab. Commissioners. 5. All Labour Officers. 6. All Insp. of Factories.	1. Lab. Comm. as Chief Inspector. 2. Dy. Chief Insp. of Factories. 3. Insp. of Factories & Boilers. 4. Medical Insp. of Factories. 5. Labour Insp.
2. Industrial Disputes Act, 1947.	Conciliation Officers.		1. Lab. Comm. 2. Dy. Lab. Commissioner. 3. All Asstt. Lab. Commissioner. 4. All Lab. Officers.	1. Dy. Lab. Commissioners. 2. Lab. Officers. 3. Lab. Insp. Faridabad only.
3. Indian Trade Union Act, 1926	Registrar Dy. Registrar		1. Lab. Comm. is Registrar. 2. Dy. Lab. Commissioner is Dy. Registrar.	1. Lab. Comm.
4. Minimum Wages Act, 1948.	Inspectors		1. Labour Comm. 2. Dy. Lab. Comm. 3. All Asstt. Lab. Commissioners. 4. All Lab. Officers. 5. All Inspecting Officers (Bonus) 6. Lab. Wel. Officers. 7. Research Asstt.	1. Lab. Insp.

V

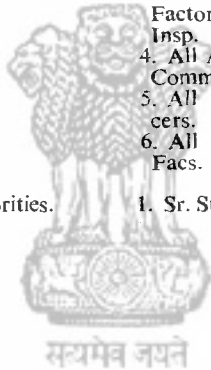
of the Labour Department for

Authorities appointed under various Acts in the States

responsible for enforcement

HIMACHAL PRADESH	PUNJAB	RAJASTHAN	UTTAR PRADESH	JAMMU & KASHMIR
6	7	8	9	10
1. Lab. Officers as Chief Insp. Factories. 2. Lab. Insp. as Addl. Insp. 3. Factory Insp.	1. Lab. Comm. as Chief Inspector of Factories & Boilers. 2. Dy. Chief Insp. Factories. 3. Insp. Factories & Boilers. 4. Medical Insp. of Factories.	1. Chief Insp. of Factories & Boilers. 2. Inspector of Factories & Boilers.	1. Chief Insp. of Factories. 2. Dy. Chief Insp. of Factories. 3. Insp. of Factories. 4. Insp. of Factories (Medical)	1. Labour Comm. acting as Chief Insp. 2. Two Factories Insp.
1. Lab. Comm. 2. Lab. Officer. 3. All Districts Industries Officers 4. All Asstt. District Industries Officers.	1. Lab. Comm. 2. Joint Lab. Comm. is Chief Conciliation Officer. 3. Lab. cum-Conciliation Officers.	1. Lab. Comm. 2. Joint Lab. Comm. 3. Dy. Lab. Comm. 4. Reg. Asstt. Lab. Comms. 5. All Lab. Inspectors.	1. All Reg. Asstt. Lab. Comms. 2. Conciliation Officers.	Dy. Lab. Comm.
1. Director of Ind. as Registrar before 19-1-68 Now Lab. Officer is Registrar.	1. Joint Lab. Comm.	1. Dy. Lab. Comm (II)	1. Registrar of Trade Union. 2. Dy. Registrar of Trade Union	1. Lab. Comm. acting as Registrar. 2. Two Trade Union Insp. also Appointed.
1. Lab. Insp.	1. Lab. Insp. 2. Wages Insp. 3. Shops Insp. <i>For Agriculture.</i> 1. Field Kanungoes. 2. Patwaries of Revenue Deptt.	1. Dy. Lab. Comm (I) 2. Reg. Asstt. Lab. Comm. 5. Lab. Insp.	1. Lab. Insp. 2. Asstt. Trade Union Insp. 3. Welfare Insp. 4. All Officers of Lab. Deptt.	

1	2	3	4	5
			8. All Lab./Min./ Wages/Complain- t/Press/Shops Ins. 9. Asstt. Lab. Of- ficers. 1. Sr. Sub Judge.	1. All Lab. Offi- cers.
		Authorities		
5. Payment of Wages Act, 1936.	Inspectors.		1. Lab. Comm. 2. Dy. Lab. Com- missioners. 3. Chief Insp. of Factories & Elec. Insp. 4. All Asstt. Lab. Commissioners. 5. All Lab. Offi- cers. 6. All Insps. of Facs.	1. Labour Ins- pectors.
		Authorities.	1. Sr. Sub. Judges.	1. All Lab. Offi- cers.
6. Indian Boiler Act, 1923	Inspectors		1. Chief Insp. of Fac., Boilers & Boilers & Elec. Insps. 2. Insp. of Boilers	1. Boiler Insp. is not under Lab. Deptt. but with Industries Deptt.
7. Industrial Employment (Standing Orders) Act, 1948	Certifying Officers Authority		1. Lab. Comm.	1. Lab. Comm. 2. Dy. Lab. Com- missioners.
8. Workmen's Com- pensation Act, 1923	Compensation Comm.		1. Sr. Sub. Judge.	1. All Lab. Offi- cers.



6	7	8	9	0
---	---	---	---	---

1. Sr. Sub. Judges.	1. Sr. Sub. Judges. 2. Addl. Distt. Magistrates.	1. Reg. Asstt. Lab. Comms. 2. All Distt. Magistrates. 3. 1st Class Magistrates. 4. Chief Insp. of Factories & Boilers. 2. Insp. of Fac. & Boilers.	1. All Officers of Inspectorate of Facs. 2. Lab. Insp. 3. Officers of the Lab. Deptt.	
1. Sr. Sub. Judges.	1. Sr. Sub. Judges. 2. Addl. Dist. Magistrates. 5. Tehsildar of Revenue Deptt. 4. Sub. Div. Magistrate who are specified.	1. Reg. Asstt. Lab. Comm. 2. Distt. Magistrates. 1st Class Magistrates.		Dy. Lab. Comms.
1. Chief Insp. of Boilers, Punjab.	1. Chief Insp. of Boilers.	1. Chief Insp. of Facs. & Boilers. 2. Insp. of Facts & Boilers	1. Chief Insp. of Boilers. 2. Insp. of Boilers.	
1. Director of Industries as Ex-Officio Lab. Comm.	1. Lab. Comm. 2. Joint Lab. Comm.	1. Lab. Comm. 2. Joint Lab. Comm. 1. Lab. Court.	1. Lab. Comm. 2. Lab. Court.	Lab. Comm.
1. Sr. Sub. Judges	1. Sr Sub-Judges. 2. Addl. Distt Magistrate.	1. All Reg. Asstt. Lab. Comms.	1. Joint Lab. Comm. II. (Under Sec. 17).	Dy. Lab. Comm. & Dir. Forest Officers, for Forest Lab.

1	2	3	4	5
9. Working Journalists (Conditions of Services and Misc. Provisions) Act, 1955	Insp.		1. Lab. Officer Cum-Chief Insp. of Shops.	
10. Employment of Children' Act, 1928	Insp.		1. Chief Insp. Facs., Boilers & Elec. Insp. 2. All Insp. of Facs.	
11. Motor Transport Workers Act, 1961	Inspector		1. Lab. Officer Cum-Chief Insp. shops, as Chief Insp.	1. Facs. Insp. 2. Lab. Insp.
12. Payment of Bonus Act, 1965.	Inspectors.		1. Lab. Comm. 2. Dy. Lab. Commissioner. 3. All Asstt. Lab. Commissioners. 4. All Lab. Officers. 5. All Inspecting Officers (Bonus)	
13. Shops & Commercial Esstt. Act, 1958.	Inspectors		1. Lab. Officer-Cum-Chief Insp. of Shops as Chief Insp. under the Act. 2. Lab. Comm. 3. Dy. Lab. Commissioner. 4. All Asstt. Lab. Comms. 5. All Lab. Officers. 6. All Inspecting Officers (Bonus) 7. Lab. Wel. Officer. 8. Asstt. Lab. Wel. Officer. 9. All Lab./Min. Wages/complaints/Press/Shops Insp. 10. All Lab. Wel. Supervisors.	

6	7	8	9	10
		1. Dy. Lab. Comm. (I) 2. Reg. Asstt. Lab. Commissioners. 3. Labour Insp.	1. Joint Lab. Comm. (II) (Under Sec. 17) 1. Insp. of Facs. of Factories & Boilers. 2. Lab. Insp. 3. Officers of the Lab. Deptt. (Secs 68)	
1. Director of Industries Ex-Officio Lab. Comm. as Chief Insp.	1. Lab. Comm. as Chief Insp.	1. Dy. Lab. Comm (II) as Chief Insp. 2. Lab. Insp. 1. Joint Lab. Comm. 2. Dy. Lab. Comm. 3. Bonus Insp.	1. Asstt. Lab. Comm. as Chief Insp. 2. Lab. Insp. (Transport). 1. Lab. Comms. 2. Joint Lab. Comm. 3. Asstt. Lab. Comms. 4. Lab. Inspectors. 5. Cost Accounts Officers. 6. Conciliation Officers.	
	1. Asstt. Lab. Comm. is Chief Insp.	1. Dy. Director Industries (Weights & Measures) work as Dy. Lab. Comm. Ex-Officio. 2. Weights & Measures Insp. of Ind. Deptt. as Insp. under the Act.	1. Lab. Insp. 2. Asstt. Trade Union Insp. 3. Welfare Insp. 4. All Officers of the Lab. Deptt.	

APPENDIX VI

GUIDE-LINES FOR CONCILIATION OFFICERS

Admission of Dispute in Conciliation :

1. In regard to disputes in concerns which are not Public Utility Services within the meaning of the Industrial Disputes Act, the admission of disputes in conciliation is discretionary and not obligatory. Normally, such disputes should be admitted in conciliation after preliminary scrutiny and enquiry.

2. The object of the preliminary scrutiny is to see whether the subject matter of the dispute in question would not be in contravention of any statutory provisions and would not militate against any directive and/or instructions issued by the Government from time to time.

3. The points in regard to which a preliminary scrutiny and enquiries are required to be made are :

- (i) jurisdiction of State conciliation machinery or Central Government machinery;
- (ii) total number of workers in the establishment and number of workers affected by the dispute;
- (iii) whether the demands under dispute were served on the opposite party by the party sponsoring the dispute and whether mutual negotiations were held and if so, with what results;
- (iv) sponsorship of the dispute by a registered Trade Union or individual workman or by duly elected representatives of the workmen;
- (v) whether any of the demands in the dispute are *prima facie* covered by the provisions of any of the Labour Laws ;
- (vi) whether demands involved in the dispute have been previously brought in conciliation/refused adjudication/

covered by subsisting award or settlement or pending before any other officer or the Industrial Tribunal/Labour Court.

4. A dispute should not be admitted in conciliation :

- (a) if employees, on whose behalf it has been raised, are not workmen within the meaning of the Act;
- (b) if there is a subsisting settlement or award covering the same or substantially the same demands now being raised;
- (c) if remedy to any of the demands can be secured by recourse to the other existing labour legislation.

5. If on the basis of preliminary enquiries made, the Conciliation Officer finds that the dispute or a particular demand involved in it is not admissible in conciliation on account of certain statutory provisions or requirements or the directives mentioned in para 2 above, the Conciliation Officer should inform the Trade Union/workman in writing that he would not be able to take the dispute/demand in conciliation.

6. If he has decided to admit only a part of the dispute in conciliation, he should specifically mention this fact in his note and also indicate which part of the dispute or which of the demands have been admitted in conciliation by him.

7. Simultaneously with the admission of the dispute in conciliation, the conciliation officer should issue to the parties concerned letters declaring that he has commenced conciliation proceedings on such and such demands and also mention the date, time and place of the commencement of conciliation proceedings.

8. In case of Public Utility Services, where a notice of strike has been given in the prescribed manner, the Conciliation Officer should scrutinise whether the notice is in the prescribed manner and that it is otherwise not frivolous or vexatious. If it broadly meets the legal requirements, it is incumbent on the Conciliation Officer to initiate proceedings on the dispute without preliminary enquiries. In such cases, conciliation proceedings automatically commence on the date of receipt of the notice of strike or lockout

by the Conciliation Officer under Section 12(1) of the Industrial Disputes Act.

9. Every effort should be made by the Conciliation Officer to complete conciliation proceedings within the time limit fixed under section 12(6) of the Industrial Disputes Act and normally the time taken for conciliation should not exceed one month unless the parties themselves desire to extend the same and the Conciliation Officer consents to the same on reasonable grounds.

Report of Conciliation Officer :

10. The Conciliation Officer, under law and practice, is required to send to the Government two types of reports under Section 12 of the Industrial Disputes Act. When no settlement is arrived at, he has to send a report known as "Failure Report" *vide* section 12(4) of the Act. When a settlement is arrived at (*vide* Section 12(3) of the Act) he has to send a report to the Government, together with the 'Memorandum of Settlement', duly signed by the parties to the dispute.

11. Sometime a question arises as to whether a report is necessary in case a settlement has not been reduced to writing, Section 12(3) of the Act read with Rule 58 of the Industrial Disputes Rules, 1958, however, contemplates the completion of a settlement in writing in the prescribed Form H. But where conciliation proceedings have already started either in—

- (i) a Public Utility Service on receipt of a notice of strike or a lock-out under Section 22 of the Act; or
- (ii) a Non-public Utility Service where the conciliation officer has given formal intimation in writing to the parties declaring his intention to commence conciliation proceedings with effect from such date as may be specified there—in accordance with the relevant rules under the Act—and the dispute is settled without any agreement in writing, it seems necessary that to conclude proceedings under Section 20 of the Act, a report in writing should be sent to the Government under Section 12 of the Act.

12. Where a Conciliation Officer intervenes casually or

informally for purpose of narrowing down differences between the disputing parties and the differences are allowed to be negotiated mutually between the parties as a result of his good offices, such cases cannot strictly be treated as regular conciliation proceedings laid down under the Act and no report is necessary to be sent to the Government in such circumstances.

13. The report of conciliation officer should provide, *inter alia*, the following —

- (a) the names of the parties to the dispute(s) together with their addresses;
- (b) the affiliation of the Union raising the dispute with a central labour organisation (i.e. whether it is affiliated to the Indian National Trade Union Congress etc.); where the Union is not affiliated to any central labour organisation, the Conciliation Officer should record his opinion as to the political leanings of the Union, if any ;
- (c) whether the union has in its constitution adopted a method of settling disputes by mediation, conciliation, adjudication or arbitration;
- (d) whether a strike or a lockout exists in the undertaking in which an industrial dispute has arisen. If so, full details about the same ;
- (e) the approximate number of workers involved in the dispute *vis-a-vis* the total workmen employed in the establishment concerned ;
- (f) wherever possible, the exact or approximate membership of the union sponsoring the dispute and also of the rival unions, if any.

14. A failure report has to be prepared cautiously and carefully. It should contain details of the dispute and proceedings held in regard to it. The report should normally contain :—

- (a) steps taken by the Conciliation Officer for ascertaining the facts and circumstances relating to the dispute;
- (b) steps taken to bring about a settlement on the dispute;
- (c) a full narration of such facts and circumstances; and

- (d) the reasons on account of which, in his opinion, a settlement could not be arrived at.

15. The following should invariably figure in the course of the Report :—

- (a) correct names and addresses of the parties to the dispute;
- (b) trade union/s sponsoring the dispute and its affiliation;
- (c) subject matter of the dispute; and
- (d) categories/departments of workmen/staff etc., affected by the dispute.

The failure report should be accompanied with *confidential note*, which must supplement the failure report by such other information which otherwise cannot be given under the statutory report and which is meant for the confidential use of the Government and cannot, therefore, be a public document.

16. The report of failure of conciliation received from the Conciliation Officer should contain the relevant information necessary to assess properly the issues raised by the unions for coming to a conclusion whether the disputed matters are or are not fit matters worth reference to adjudication. The following instructions should, therefore, be kept in mind by the Conciliation Officers while dealing with disputes under the provisions of the Industrial Disputes Act, 1947:—

- (i) in cases involving personnel problems, such as transfer, suspension, demotion, discharge, dismissal, retrenchment, lay-off etc., the length of service put in by the employee under the same management and whether the record of his service was good, bad or indifferent, should be ascertained and incorporated in the failure report. In case his previous record of service was bad, the specific offence with which he was charged and the penalty imposed should also be mentioned;
- (ii) in cases of alleged victimisation of employees, the motive behind such victimisation should be ascertained and reported, while in case of alleged victimisation

tion for trade union activities, the capacity in which and the period for which the workman has been associated with the union, should be ascertained and reported. It would be also relevant to know in such cases whether the punishment imposed on the employee can be considered reasonable or excessive;

- (iii) in cases of retrenchment and lay-off, it should be ascertained and reported whether the retrenchment/lay off was bonafide, just and unavoidable and also whether the principle of "last come first go" was observed. If not, whether there has been sufficient justification for departing from this principle;
- (iv) in all cases, it must further be examined whether the action taken by the management was in conformity with the standing orders. If not, whether remedy already lies with the workmen to refer the question/irregularity directly for decision to the Labour Court under Section 13A of the Industrial Employment (Standing Orders) Act. Where proceedings are in pendency and the employer has failed to obtain permission/approval in accordance with Section 33 of the Industrial Disputes Act, 1947, whether the workman or the union on behalf of the workman has availed of remedy under Sec. 33A, in filing a complaint before the adjudication machinery and made complaint is *subjudice* before the Labour Court/Industrial Tribunal. In the later circumstances, the dispute is not ripe and should, therefore, not be admitted in conciliation.
- (v) in cases where the dispute involves withdrawal of a privilege or concession previously enjoyed by the workman, or change in the condition of service, the period during which the privilege, concession or previous condition of service was in vogue and the circumstances under which such privilege, concession or condition of service, was originally introduced should be reported, indicating clearly how far those circumstances hold good even after such withdrawal.

- (vi) where a dispute has been raised much after the event giving rise to the dispute, the reasons for delay in raising the dispute should be ascertained from the party and mentioned in the report, together with the comments of the officer as to how far those reasons can be accepted as valid and satisfactory.

17. A charter of demands submitted by the union should invariably be sent by the Conciliation Officer along with the failure of conciliation report submitted under section 12(4) of the Industrial Disputes Act, 1947.

18. The failure report (factual report, Part I) should not go beyond the actual statement of facts by the parties to the dispute and should not include the opinion of the Conciliation Officer or his likely recommendations. This is not the purpose of this part of the report. This report should be concise and brief and should be confined only to the factual statements made by the parties, since a copy of this report is also required to be sent to the parties concerned.

19. The Confidential Report should only give additional facts which the Conciliation Officer wishes to mention together with his own comments, assessment, recommendation etc. It may be brief but not so brief as not to clearly detail the pros and cons of the issues under reference. In other words, irrelevant facts should be avoided and repetition of what has been stated in Part I should not be made.

20. The report sent under Section 12(4) should also contain, briefly, information about the time taken by the Conciliation Officer in preliminary investigations, time taken in conciliation proceedings and the period or periods for which adjournments were allowed indicating the reasons therefor. This will help in finding out the stages and causes of delay. It should also be mentioned in the Report, whether the dispute was ever raised by any other union/federation. If so, with what results ?

21. In the Confidential Note (Part II), the Conciliation officer should also enumerate the breaches, if any, of the Code of Discipline in Industry before or during the course of conciliation

proceedings. He may also mention in this report whether the parties were ever persuaded by him to agree to voluntary arbitration and what has been the reaction of the parties to the same.

22. The Conciliation Officer, while making recommendations to Government for considering a reference to adjudication, should state his views clearly and unequivocally to help Government in coming to a decision about the dispute.

23. While recommending adjudication on a dispute the following principles may be borne in mind by the Conciliation Officer :—

- (a) where a strike or a lock-out is in force and the strike or lock-out *prima-facie* appears to be illegal/unjustified, adjudication may ordinarily be refused, unless the strike or lock-out as the case may be, was on account of provocation and was subsequently called off by his timely intervention;
- (b) as a rule, no adjudication should be recommended in respect of individual cases relating to dismissal or discharge which involve breach of discipline, unless the action of the management *prima-facie* is with a view to weaken the legitimate trade union movement and appears to be nothing short of an unfair labour practice.

24. Once conciliation proceedings have commenced under law, they must conclude, either by way of settlement under Section 12(3) or failure of conciliation under Section 12(4) of the Act. In all such cases, a report has to be sent to the Government. In the case of a report under Section 12(4) of the Act, intimation of such report having been received by the Government should be given as a conclusive proof of the conclusion of proceedings. If the party sponsoring the dispute intends to withdraw some of the demands or the whole of the dispute from conciliation, such withdrawal should always be in writing, duly signed by the parties to the dispute. Where a dispute has been wholly withdrawn in the above manner, the conciliation proceedings may be treated as closed and an informal report to Government may be sent;

Where, however, only a part of the dispute is withdrawn, a report in respect of the remaining part resulting either in settlement or failure, as the case may be, shall be submitted to Government and the fact of withdrawal of a particular demand should also form part of such a report.

25. Where the party sponsoring the dispute fails to pursue the same vigorously or has shown lack of interest in carrying on the same or where delaying tactics are adopted by seeking or applying to seek frequent and meaningless adjournments, the Conciliation Officer may give a final notice to the parties of his intention to close proceedings and may proceed to do so on the expiry of such notice. An intimation of closing the case should also be sent to the Government, while informing the parties to the dispute, so as to complete the process of law.

26. It sometimes happens that after failure has been reported in conciliatory efforts by a Conciliation Officer, Government desires that further attempts to settle the same be made and entrusts the work to some senior officer of the Department. In such circumstances, unless a settlement is arrived at, report under section 12(4) of the Act is not at all necessary. The results of efforts made, may, however, need to be reported to the Government through a confidential communication. Such report may include any fresh points, which have come to the notice of the investigating officer in the course of the subsequent efforts and which, in his opinion, are relevant to consideration by the Government, for reference of the dispute or otherwise to adjudication.

APPENDIX VII

LIST OF OFFICERS WHO ALSO ATTENDED THE MEETINGS OF THE REGIONAL WORKING GROUP ON LABOUR ADMINISTRATION (NORTHERN REGION)

UTTAR PRADESH :

1. Shri N. B. Lal, Joint Labour Commissioner.
2. Shri J. Prasad, Joint Labour Commissioner.
3. Shri R. K. Gupta, Dy. Secretary, Labour Department.
4. Shri B. B. Mathur, Dy. Secretary, Labour Department.
5. Shri J. N. Srivastava, Assistant Labour Commissioner.
6. Shri N. S. Verma, Asstt. Labour Commissioner.
7. Shri J. K. Srivastava, Labour Officer.

DELHI ADMINISTRATION

8. Shri R. D. Upreti, Dy. Labour Commissioner.

HIMACHAL PRADESH :

9. Shri P. L. Sehgal, Labour Officer & Chief Inspector of Factories.

JAMMU & KASHMIR :

10. Shri K. N. Aima, Dy. Secretary, Labour Department.
11. Shri A. Butt, Dy. Labour Commissioner.
12. Shri G.S. Sharma, Dy. Labour Commissioner.
13. Shri Rajendra Kaul, Labour Welfare Officer.

RAJASTHAN :

14. Shri L. D. Chaturvedi, Dy. Labour Commissioner.